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Administrator of National Banks

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Comptroller

H. Joe Selby (Acting)

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Background

The Office of the Comptroller of the Currency (OCC) was established in 1863 as a bureau of the Department of the Treasury. The OCC is headed by the Comptroller, who is appointed by the President, with the advice and consent of the Senate, for a 5-year term.

The OCC regulates national banks by its power to:

- Approve or deny applications for new charters, branches, capital or other changes in corporate or banking structure
- Examine the bank
- Take supervisory actions against banks which do not conform to laws and regulations or which otherwise engage in unsound banking practices, including removal of officers, negotiation of agreements to change existing bank practices and issuance of cease and desist orders, and
- Issue rules and regulations concerning banking practices and governing bank lending and investment practices and corporate structure

The OCC covers the United States into six geographical districts, with each headed by a Deputy Comptroller.

The OCC operates through a network of the Federal Reserve Banks.

The Comptroller

H. Joe Selby has been Acting Comptroller of the Currency since May 6, 1985.

By statute, the Comptroller serves a concurrent term as a Director of the Federal Deposit Insurance Corporation, a member of the Federal Financial Institutions Examination Council and a nonvoting member of the Depository Institutions Deregulation Committee.

Mr. Selby began his career at the OCC in 1954. He has served as Regional Administrator of the Portland and San Francisco offices. In 1975 Mr. Selby was appointed Senior Deputy Comptroller for Operations. He held that position until 1983 when he was appointed Senior Deputy Comptroller for Bank Supervision.

He received a B.A. in Banking and Finance from the University of Texas. He has received many awards and citations, including the Presidential Bank of Distinguished Executive for sustained extraordinary accomplishments in management and public service.

The Comptroller's Bureau publishes a record for the most significant actions and policies of the Office of the Comptroller in *Quarterly Communications*, issued a year in March, June, September and December. The *Quarterly Communications* includes reports submitted by the offices of banking and state, selected speeches and testimony, material received in the interpretive section, and news of legislative developments, statistical data and other information of interest to the administration of national banks. Suggestions, comments or questions may be sent to the Communications Division, Office of the Comptroller of the Currency, Washington, DC 20219. Subscriptions are available for \$50 a year by writing to the Office of the Comptroller of the Currency, Office of the Comptroller of the Currency, Washington, DC 20219.

Quarterly Journal



Office of the Comptroller of the Currency

H. Joe Selby

Acting Comptroller of the Currency

The Administrator of National Banks

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Condition of the National Banking System

The robust economic recovery of 1983 carried over into 1984. It was a year of continued heavy borrowing, especially by businesses rebuilding depleted inventories and making new capital expenditures. The rate of unemployment continued to decline, inflation seemed to be under control, and GNP grew at the healthy rate of 6.8 percent for the year.

Although most sectors benefited from the economic climate, continued weak and declining oil prices and the emerging problems in both the agriculture and real estate construction industries prevented many national banks from taking advantage of improving economic conditions evident elsewhere. Oil prices plunged during the fourth quarter of 1984, causing a continuation of the problems facing the major energy lenders. The crisis in agriculture came to the forefront as many of the nations' farmers failed to retire debts and looked for additional funding for spring planting. Although the problems with foreign borrowers abated somewhat, the possibility still existed that renewed difficulties could arise.

At yearend 1984 there were 4,900 active national banks. Fifteen of these were multinational banks, the largest national banks with global operations. Another group of 169 banks with assets of \$1 billion or more, but with more restricted operations, comprised the regional banks. The remaining 4,716 banks were those with assets of less than \$1 billion. These smaller institutions constitute the community banks.

Net income in national banks was \$8.4 billion for 1984, up 5.4 percent from the prior year. A primary contributor was increased net interest earnings. Also adding to the growth in earnings was the fact that noninterest income grew faster than noninterest expenses such as salaries, occupancy costs and other overhead.

Increased loan demand coupled with a leveling off of interest rates in the fourth quarter contributed to an improvement in net interest margins for a majority of national banks. At the 4,716 community banks the ratio of net interest income to average earning assets increased 11 basis points during the year to 5.43 percent. For the 169 regional national banks, the increase was 6 basis points to 4.80 percent. This ratio declined 5 basis points to 3.90 percent at the 15 multinational banks.

Increased loan charge-offs in 1984 required national

banks to replenish loss reserves. Provision for loan and lease loss expense grew by 31 percent during the year. The greatest increase occurred in the multinational banks. Provision expense in this national bank group was up 42 percent from 1 year before. For community banks the increase was 26 percent and for regional banks it was 18 percent.

Noninterest income was up 27 percent in national banks from the prior year. Multinational banks continued to rely more heavily on this earnings source than did either the regional or community banks. For multinational banks, the ratio of noninterest income to average assets increased 19 basis points from 12 months before to 2.43 percent. The ratio was up 14 basis points to 1.36 percent in regional banks, and for community banks the growth was 7 basis points to 0.85 percent.

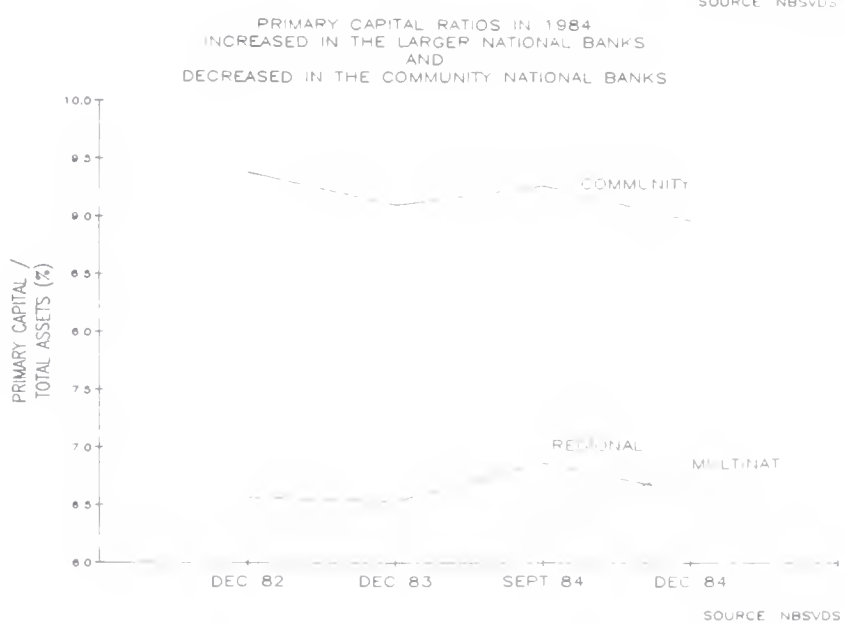
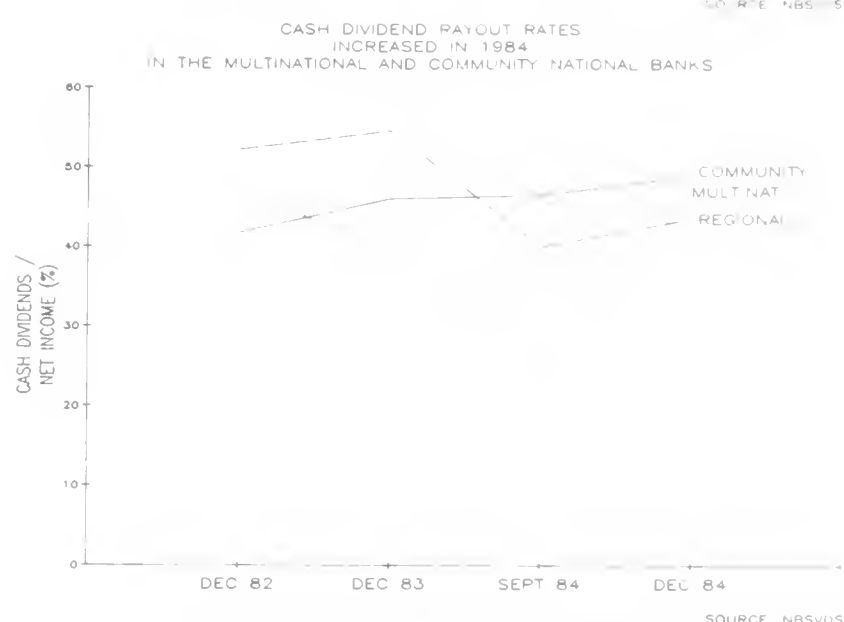
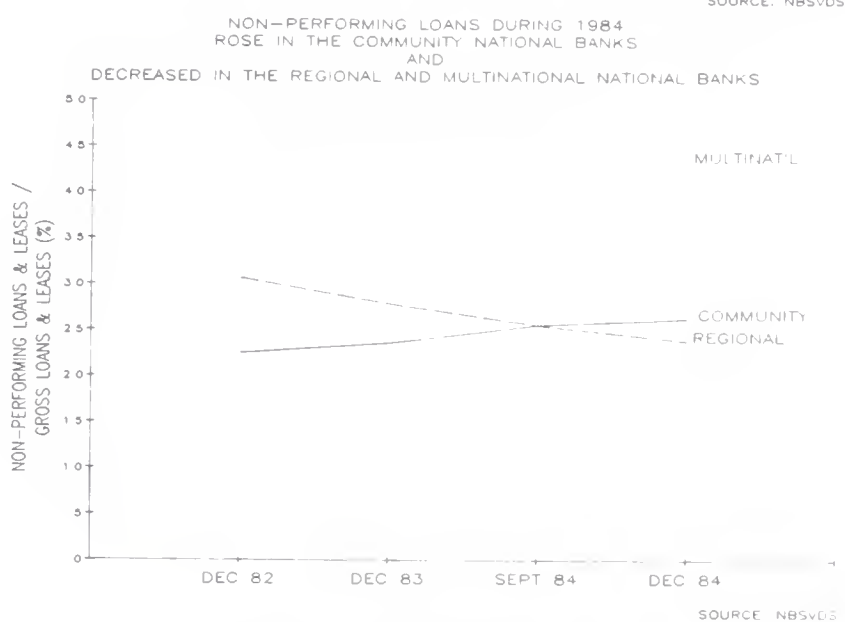
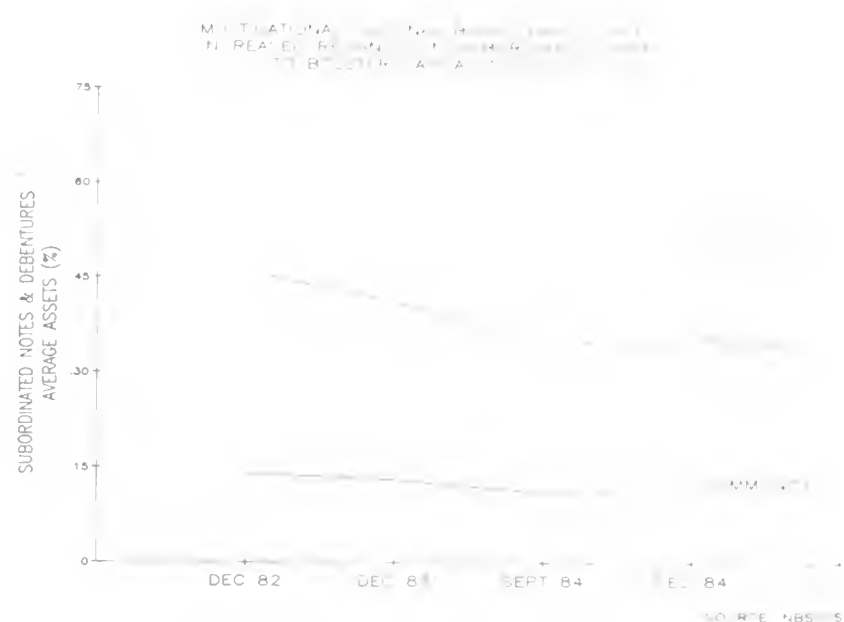
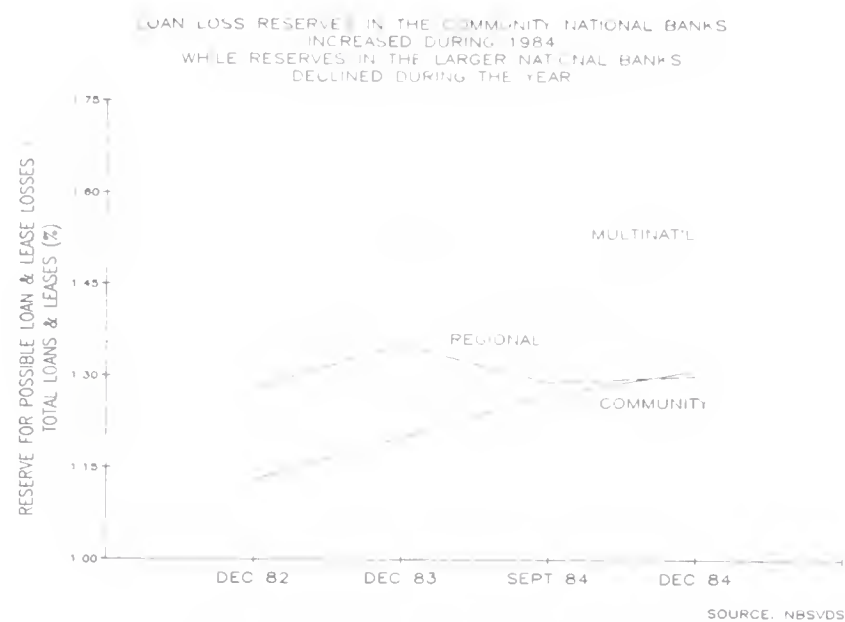
The growth in noninterest expenses at national banks slowed in 1984. These costs were up 14 percent during the year. The ratio of noninterest expense to average assets increased 6 basis points to 3.87 percent in the multinational banks and 4 basis points to 3.52 percent in the regional banks. At community banks this ratio declined 2 basis points to 3.42 percent.

Although net income for the multinational bank group declined 40 percent from 1983, the mean return on average assets for these banks improved 9 basis points to 0.30 percent. The ROA improved because asset growth was negative for the year. Net income in the regional banks increased 29 percent in 1984, and ROA increased 11 basis points to 0.85 percent. There was a 10 percent increase in community bank income, but because assets grew faster than earnings did, the mean ROA for this group declined 10 basis points to 0.83 percent.

By the end of 1984, consolidated foreign and domestic assets of national banks reached \$1.5 trillion. That was 8.3 percent higher than at yearend 1983.

Because of increased credit demands, particularly from the business sector, gross loans grew by 16.5 percent during the year. Part of the loan growth was funded by a 9 percent decline in securities holdings of national banks.

During the year, national bank ownership of state, county and municipal securities declined by 25.4



to represent a larger proportionate share of national banks' liabilities. By the end of 1984 these kinds of deposits had increased in national banks by 49.5 percent over the 12-month period and totalled \$781.5 billion at yearend. The largest increase was 137 percent at community banks. The regional banks were next with a 72 percent growth rate. In multinational banks, the growth rate of deposits with an unregulated interest rate slowed to 8.4 percent in 1984.

National banks continued to be affected by the lingering aftershock of the 1981-1982 recession and the

continuing problems associated with specialized lending areas such as agriculture, energy, and foreign credits. Net loan losses in national banks increased 36.4 percent in 1984. The most significant increases were in the very largest and smallest national banks. In multinational banks, the ratio of net loan losses to average total loans increased 20 basis points from the year before and stood at 1.48 percent. The ratio in the community banks was 0.93 percent, a 14 basis point jump for the 12-month period. Regional banks experienced a 7 basis point decline in this ratio to 0.60 percent.

National banks' provision for loan losses of \$9.0 billion exceeded net charge-offs in 1984. Overall, national banks made provisions at \$1.22 for each \$1 charged off. That excess contributed to a 31.1 percent increase in the allowance for possible loan losses during the 12-month period.

Community banks' ratio of allowance for possible loan losses to total loans increased 11 basis points during the year to 1.31 percent. This ratio declined at both the multinational and regional banks. For multinational banks, the decrease was 6 basis to 1.50 percent of total loans. Because loans grew more rapidly than loss reserves, the ratio was down 5 basis points to 1.30 percent for the regional banks.

For community banks, loans or leases 90 days or more past due, renegotiated, or in nonaccrual status, increased 20 basis points to 2.44 percent of total loans by the end of 1984. For multinational banks, nonperforming loans and leases declined 57 basis points to 4.33 percent during the same time period. The regional banks experienced a decline of 40 basis points to 2.38 percent.

The ratios of average primary capital to total assets increased for the larger national banks during 1984 and decreased for community banks. For multinational banks, the average ratio increased 75 basis points to 6.82 percent over the 12-month period. This occurred

because increased amounts of mandatory convertible debt were issued and asset growth was negative. The average was up 8 basis points to 6.61 percent in the regional banks. Although community national banks remain more heavily capitalized than their larger counterparts, the community bank average primary capital ratio continued to decline in 1984. By yearend, it was down 13 basis points over the past 12 months to 8.97 percent.

During the year, the amount of cash dividends paid out relative to net income increased in both the community and multinational banks. Community banks paid out an average of 49 percent of earnings in dividends. This was an increase from 1983 when the average was 46 percent. The average cash dividends paid by multinational banks went from 40 to 46 percent. Average cash dividends paid by regional banks dropped from 55 percent to 44 percent of net income.

At the end of December 1984, there were 775 national banks receiving special supervision due to financial, operating or compliance weaknesses. This is a 5 percent increase from September 1984 and a 29 percent increase from December 1983.

Woodrow W. Reagan
NBE Financial Analyst
Community Bank Analysis Division

Earnings at Regional Banking Companies

Approximately 120 of the largest national and state regional banking companies were studied to analyze their earnings. The results of the survey indicated the following:

- Because of strong loan growth and good loan quality, 1984 regional bank earnings increased 15 percent. Earnings increased 22 percent in the third quarter and 19 percent in the fourth quarter.
- Southeast, Northeast and Midwest banks reported sharp earnings increases. Gains at Western and Southwestern banks were lower.
- Slower, but still solid loan demand, should result in an 11 to 15 percent increase in earnings in 1985.
- On the negative side, higher consumer loan losses and lower spreads are possible.
- Regional bank stocks increased 13 percent in 1984 compared to no gain for the S&P 400 and a 4 percent decline for the Dow Jones Industrials.

Regional bank earnings strength can be attributed to strong loan growth and good loan quality. Federal Reserve data shows that 1984 bank consumer installment lending grew about 20 percent. Commercial and industrial loan growth was also strong, especially in the Southeast. Large banks in the Richmond and Atlanta Federal Reserve Districts reported C&I loan growth of 30 percent in 1984. Provision expense was higher but this resulted from expanding volume rather than weakening credit quality.

Although the spread between 90-day CD's and prime was wider than normal in the fourth quarter, the spread between MMDA's and prime, a better earnings indicator for regional banks, narrowed considerably. Many regional banks are asset-sensitive and, when rates decline, loan yields decline faster than rates paid on MMDA's and consumer certificates. Thus, it appears likely that spreads at regional banks were actually lower in the fourth quarter than in previous 1984 quarters. It follows that fourth quarter dollar margin expansion was due to asset volume increases, i.e., loan growth.

Comparative geographical earnings performance for the group of banks sampled follows:

	1984	1983	1982
West	12%	5%	-10%
Southwest	8	-27	9
Midwest	16	3	4
Northeast	16	4	9
Southeast	17	21	13
Totals—All	15	4	7

Regional banks earnings momentum is so strong that most analysts expect 1985 earnings per share to be up 10 to 15 percent. This year is expected to be another good earnings year because: (1) last year's first quarter was mediocre, thus, comparison with a weak quarter should get regional banks off to a fast start in 1985; (2) with more stable interest rates, MMDA and consumer certificate costs should move downward and into a more normal (compared to the fourth quarter of 1984) spread relative to loan yields. The subsequent spread increase will be welcomed by banks, especially if loan growth slows; (3) the consumer, the regional banks' most important customer, is still borrowing at a record (though slower) pace; and (4) loan quality shows no signs of slipping.

Potential negatives include declining loan growth, higher loan losses, and lower spreads. Further, it is difficult to maintain rapid growth rates. Consumer instalment debt is at an all time high of 25 percent of wages and salaries, thus, losses in this sector could increase. On the rate front, the relative interest margin achieved in 1984 was unusually high and is not likely to be maintained in 1985.

Regional bank stocks were up 13 percent in 1984. During the same period, the S&P 400 did not gain and the Dow Jones Industrial Average declined 4 percent. When the 13 percent gain is combined with a 5 to 6 percent dividend yield, the ROI for 1984 is nearly 20 percent. The real strength was in the geographic areas with a large number of banks, i.e., the Southeast, the Northeast, and the Midwest. The gains in these areas offset lower performance in the Southeast and West.

The stock market boom in regional bank stocks has continued into 1985 and many of these stocks are still hitting new highs. Regional bank price earnings ratios below those of industrial companies for some time are rapidly closing the gap. Because of this, some ana-

ys's feel regional bank stocks are now fully priced. Other analysts feel that strong earnings growth, prospects for consolidation, low inflation, and the fact that deregulation has not had the expected impact indicate strong market performance will continue.

Market performance in 1984 by geographical sectors is as follows:

West	7%
Southwest	-15
Midwest	15
Northeast	16
Southeast	19
Average—All	13

Stephen M. Lane
NBE
Supervisory Analysis

District Organization

The reorganization of the Office of the Comptroller of the Currency from thirteen regional offices into six district offices was completed in 1984. This reorganization involved major changes in geographic boundaries and supervisory responsibility for national banks throughout the country.

The district offices are located in major financial centers: New York, Atlanta, Chicago, Dallas, Kansas City and San Francisco. Each is headed by a Deputy Comptroller, who reports to the Senior Deputy Comptroller for National Operations, a District Administrator, and a District Counsel. The district structure also includes Directors of four major organizational areas: Administration, Supervision and Examinations, Analysis, and Field Offices. The district offices are responsible for:

- Supervising national banks in their geographic areas;
- Promoting a sound and competitive national banking system; and

- Ensuring a balance is maintained between the public interest and supervisory requirements

The larger (regional) banks and those which require special supervisory attention are supervised from the district offices by the Directors for Bank Supervision. Corporate matters, such as licensing applications and legal issues are also handled by district office personnel.

The district offices are supported by 23 field offices, each of which is headed by a Director. With the exception of those areas noted above, the Field Office Director is the focal point for supervision of banks. Field Office Directors direct, coordinate and supervise examination and bank supervisory functions for a designated segment of a district. They supervise field examiners assigned to a specific geographic area to ensure a quality examination process. The directors also serve as the focal point for general inquiries from the banks which they supervise.

The following chart briefly summarizes the primary contact or supervisory office for each situation listed:

Location	Position	Primary Contact for:
District Office	Director for Bank Supervision	Banks requiring special supervisory attention, and regional banks.
District Office	Director for Analysis	Licensing applications, fees and processing for all banks.
District Office	Legal Counsel	Inquiries for legal advice or interpretation for all banks.
Field Office	Field Office Director	All banks not listed under Director for Bank Supervision General inquiries concerning OCC policy.

The following page details the address and phone number of each district and field office for the OCC

District and Field Offices

Office	Address	Phone
<u>Northeastern District Office</u>	1211 Avenue of the Americas, Suite 4250, New York, NY 10036	(212) 944-3495
<u>Field Offices</u>		
Boston	Harbor Plaza, Eighth Floor, 470 Atlantic Ave, Boston, MA 02110	(617) 223-2274
New York City	Hobart Plaza One, 275 Hobart Street, Perth Amboy, NJ 08862	(201) 826-1779
Philadelphia	Three Parkway, Suite 1800, Philadelphia, PA 19102	(215) 597-5894
<u>Southeastern District Office</u>	Peachtree Cain Tower, Suite 2700, 229 Peachtree St., NE, Atlanta, GA 30303	(404) 221-4926
<u>Field Offices</u>		
Atlanta	Peachtree Cain Tower, Suite 2601, 229 Peachtree St., NE, Atlanta, GA 30303	(404) 221-4540
Memphis	165 Madison Avenue, Suite 800, Memphis, TN 38103	(901) 521-3039
Miami	Federal Reserve Building, Suite 105, 9100 NW 36th St., Miami, FL 33178 Miami Mailing Address: Box 026047 Miami, FL 33102	(305) 350-4484
Richmond	Old City Hall, Suite 305, 1001 East Broad St., Richmond, VA 23219	(804) 771-2406
<u>Central District Office</u>	Sears Tower, Suite 5750 233 South Wacker Dr., Chicago, IL 60606	(312) 353-0300
<u>Field Offices</u>		
Chicago	O'Hare Atrium Office Centre, Suite 240, 2800 River Road, Des Plaines, IL 60018	(312) 699-9260
Cincinnati	Enquirer Building, Suite 1010, 617 Vine St., Cincinnati, OH 45202	(513) 684-2295
Cleveland	One Erieview Plaza, Suite 1100, Cleveland, OH 44114	(216) 522-7141
Springfield	Washington Building, Suite 5, 4 Capital Plaza N., Springfield, IL 62701	(217) 492-4580
<u>Midwestern District Office</u>	2345 Grand Avenue, Suite 700, Kansas City, MO 64108	(816) 566-1860
<u>Field Offices</u>		
Kansas City	The Bryant Bldg., Suite 2000, 1102 Grand Ave., Kansas City, MO 64106	(816) 374-2836
Minneapolis	800 Marquette Ave., Suite 1100, Minneapolis, MN 55402	(612) 349-3720
Omaha	Burlington Place, Suite 300, 1004 Farnam on the Mall, Omaha, NE 68102	(402) 221-4811
<u>Southwestern District Office</u>	1201 Elm Street, Suite 3800, Dallas, TX 75270	(214) 767-4400
<u>Field Offices</u>		
Dallas	Three Forest Plaza, Suite 1000, 12221 Merit Drive, Dallas, TX 75251	(214) 767-5750
Houston	The America Tower, Suite 1840, 2929 Allen Pkwy., Houston, TX 77019	(713) 229-3816
Midland	Dinero Plaza, 1004 North Big Spring, Suite 500, Midland, TX 79701	(915) 684-0917
Oklahoma City	The Harvey Parkway Bldg., Suite 290, 301 NW 63rd St., Oklahoma City, OK 73116	(405) 231-5255
<u>Western District Office</u>	50 Fremont Street, Suite 3900 San Francisco, CA 94105	(415) 545-5900
<u>Field Offices</u>		
Denver	1405 Curtis St., Suite 3000, Denver, CO 80202	(303) 837-4883
Los Angeles	Pacific Mutual Bldg., Suite 528 523 W. 6th Street, Los Angeles, CA 90014	(213) 688-5753
Salt Lake City	University Club Bldg., Suite 1600 136 E. South Temple, Salt Lake City, UT 84111	(801) 524-3366
San Francisco	311 California St., Suite 800 San Francisco, CA 94104	(415) 974-0162
Seattle	Arctic Building, Suite 900 200 Third Ave., Seattle, WA 98104	(206) 442-5234

Speeches and Congressional Testimony

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Michael Patriarca, Deputy Comptroller for Multinational Banking, before the House Subcommittee on General Oversight and Investigations of the Committee on Banking, Finance, and Urban Affairs, April 16, 1985	30

Remarks by C. T. Conover, Comptroller of the Currency, before the California League of Savings Institutions, Rancho Mirage, Calif., February 25, 1985

“New Challenges for California Savings Institutions”

It is a pleasure to be here today. It is an exciting time to be a thrift institution in California. Certainly your industry has had a difficult time in the last few years. But now you stand at a threshold of opportunity unlike that of other depository institutions. The powers that you now possess afford each of you the ability to become strong and diversified and to be successful, thriving institutions. Today I would like to present my views on how to best achieve that transformation.

The Environment Is Changing

There are important changes taking place in the financial services marketplace. After decades of relative stability, depository institutions are now learning that early recognition and adaptation to marketplace change are key elements to continued survival, growth, and profitability.

One important force for change has been deregulation. Over the past few years, thrifts have lost the 25 basis point differential over commercial banks and began paying market rates for deposits. Geographic market restrictions are becoming increasingly eroded. And today thrifts have virtually all the powers of commercial banks. Moreover, a unitary thrift holding company has significantly more flexibility than a bank holding company.

Depository institutions also face a new economic environment. Portfolio management has been complicated by unprecedented interest rate volatility, and more recently, by the deceleration of record-level inflation rates. In the early 1980s the economy experienced back-to-back recessions causing overall credit quality to decline.

Technological advances are also reshaping the financial services marketplace. Services were once delivered through brick-and-mortar branches by live tellers. Increasingly, they are being offered by ATMs or even at the point of sale. Product design is also being transformed by the computer. Asset management accounts, consolidated loan/deposit statements, and even money market mutual funds would not have been as cost-effective a decade ago.

The Marketplace of the Future

Deregulation, economic volatility, and advancing technology are here to stay. Whether you consider

these to be changes for the better or worse, you must accept that they are inevitable. The important thing is to know how these phenomena are reshaping the marketplace so that you can adapt.

Increased Competition

One important characteristic of the marketplace that will remain so in the future is increased competition. Deregulation and new technology enable almost any type of enterprise to compete in the financial services marketplace.

Retailers and securities firms, for example, now own nonbank banks or savings and loan associations. Joint ventures and networks bring together nondepository firms with banks or thrifts to offer loan and deposit services in combination with a broader range of financial products. Some arrangements even bypass banks and thrifts altogether.

In recent years commercial banks have lost many of their best customers to the commercial paper market. Lest you think the mortgage market is safe from such competition, ask your strategic planners about the long term implications of computerized home mortgage originations. Once sufficient volume is attained, a securities firm could issue securities backed by mortgages originated by a national real estate firm—without the involvement of a bank or thrift.

Savvy Consumers

Another facet of the marketplace of the future is the rise of the savvy consumer. Consumers are paying more attention to the quality of financial services an institution has to offer. Whether that institution is a bank, a savings and loan association, or a retailer is no longer important. Consumers want quality products, reasonably priced, and available through a convenient delivery system.

These developments clearly imply that depository institutions no longer have a lock on the market for transaction, deposit, and lending services. New, nontraditional competitors are continuing to spring up to offer innovative products that are right in step with the needs of today's consumer.

Management Accountability

Although most depository institutions are gaining flexibility in their activities, this is being coupled with increased management accountability. When increased risks are taken, safeguards against those risks will be required. More emphasis will be placed on the adequacy of capital and the effectiveness of internal controls. Management will also be held accountable to the marketplace through increased disclosure. In short, institutions will have more autonomy in decision-making but will have increased responsibility for the consequences of those decisions.

The Industry Must Also Change

Many of these marketplace changes have outpaced change in the thrift industry. Fortunately, you now have greater flexibility in adapting to change. Success is, more than ever, under your control. While this is a tremendous opportunity, you must use that opportunity carefully. Your success is now your responsibility.

I see two challenges that your industry must face to achieve a prosperous role in today's marketplace. The first is to improve the profitability of your present business. Strengthening your existing business will position you to meet the second challenge: expansion into new activities.

Present Performance

As you know, the thrift industry experienced significant losses during 1980–82, when short-term market interest rates were peaking. During that time, the net worth of all California thrift institutions fell by one-third—from 6 percent to less than 4 percent. Return on assets dropped from the 1-percent range to nearly zero.

Since 1982, performance statistics show some improvement. By year-end 1983, net worth had risen to 4.4 percent, return on assets was back up to 0.7 percent. However, much of this improvement was due to lower interest rates and federal assistance through net worth certificates. Moreover, due to accounting conventions, reported net worth has overstated the real net worth position of the industry. Some estimate that this overstatement is substantial.

While the recent improvement in the industry is an encouraging sign, it is not clear that thrifts will be better able to weather adverse circumstances than they were in 1980. True strengthening of your industry will require fundamental restructuring.

Real net worth must be increased if your industry is to survive future economic volatility, which is sure to come. Measures should be taken to protect interest

rate margins. As we have seen, funding fixed-rate mortgages with short-term deposits results in substantial interest rate risk. Yet sharing the interest rate risk with the borrower through the use of adjustable rate mortgages, while reducing your interest rate risk, generates additional credit risk.

Asset-liability management should play a greater role in your portfolio decisions. To further insulate your institutions from interest rate risk, noninterest income needs to be increased. And finally, the key to continued profitability lies in cost cutting. Operations should be streamlined to address today's technological and marketplace realities.

Future Opportunities

Strengthening the performance of your thrift business is an important first step toward long-term viability. However, this alone will not assure your success. In a changing environment, you must also consider expansion into new activities. Diversification has two important advantages. First, it will provide alternative sources of income that will enable you to better weather economic ups and downs. Second, it will allow you to continue to meet the demands of an increasingly discriminating consumer.

All of you can now engage, through various means, in a variety of financial services that were not always available to thrift institutions. These include commercial lending, securities brokerage, insurance brokerage, and real estate development, to name a few. Those of you that are chartered by the state of California have even greater flexibility. For example, you can also sponsor and operate mutual funds and engage in real estate brokerage. These powers mean that you have many opportunities to diversify. However, as you consider moving into these activities, it is important to remember that there will be losers as well as winners.

Planning Is Key

The key to both challenges—strengthening present performance and diversification—involves rethinking your role as a provider of financial services. In today's marketplace, operating as a traditional thrift is probably not a winning strategy. Customers want more than mortgage loans and savings accounts from their financial institution—and they can get more elsewhere. However, the institution that plunges head first into every permitted activity will not survive either. A planning strategy needs to be developed, based on finding answers to certain key questions:

Assessment of Services

What market segment do you want to target? The answer to this question should depend upon an assessment of your relative technological, managerial, and competitive strengths in serving different customer groups. When you have targeted your customers, you can determine which services to provide and how best to provide them. Each service you now provide and each potential new activity should be assessed.

What is the profitability of each activity? Answering this question requires an understanding of cost structure, customer preferences, and the potential competition you will face in offering the product.

Can you benefit from synergies as you move into new product areas? There may be potential for cross-selling or even joint packaging of new services with existing ones. The potential for cost economies should also be evaluated. The diversification of risk might be another advantage for certain activities.

Do you have managerial expertise for the activities under consideration? Many endeavors now available to you are far afield from your traditional activities. Since the passage of the new legislation in California, I understand that direct investments by some thrift institutions include show horses, boxing matches, aircraft parts, and assorted other businesses. I would caution that unfamiliar activities be undertaken only when they are consistent with your institution's goals, and only then after careful analyses by qualified individuals.

What are the alternative approaches to delivering each service? You do not have to manufacture each product to be able to provide it to customers. Investigate networks, franchises, and the like. It might prove more cost-effective for some institutions, particularly the smaller ones, to retail a product that has been developed elsewhere.

Organizational Structure

It is also important to look beyond each activity and take an overall look at the managerial and operational structure of your institution. If your goal is to serve the

needs of a certain market segment, then you must ensure that your organizational structure facilitates rather than inhibits that goal. Is your institution organized along functional lines—deposits, loans, trust, etc.? If so, your ability to serve a customer whose needs cut across these functional lines may be inhibited. More importantly, you may not be able to respond easily to the changing needs of that market segment. Rather than having product designers labor on perfecting the savings account, you should have them finding new ways to meet the needs of your targeted market segment. The institution that leaves it to its customers to put together their own packages of financial products and services will be left behind.

Look at your current delivery system. Is your branch structure appropriate, given the state of current technology? A "hub-and-spoke" configuration would probably suit today's marketplace better than a large network of full-service branches. Branches that are no longer profitable, even when offering expanded services, should be closed or streamlined. Automatic teller machines might be able to replace certain branches. Perhaps some functions can be eliminated from others. Again, these decisions should be driven by market needs and cost considerations.

Winning Strategy

I don't have the time to discuss all of the facets of self-assessment you must undergo. My point is simple and should be clear by now. After an honest evaluation of the kinds of questions I've posed, you can formulate a winning strategy that balances the benefits of specialization with the advantages of diversification. Such an evaluation should be undertaken with as much objectivity as possible, not influenced by "the way we've always done it". Let your experience as a thrift executive be an asset, not an unnecessary tie to the past.

I appreciate the opportunity to speak to you today. You are in an enviable position of opportunity. While some of you are already taking advantage of this, most of you are still recovering from earlier difficulties. Further strengthening of your own position and well-planned diversification into new areas are the keys to your success. I wish you luck as you tackle this challenge.

Statement of John F. Downey, Chief National Bank Examiner, before the Senate Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, Washington, D.C., March 25, 1985

Mr. Chairman, members of the committee, I appreciate the opportunity to be here today to talk about farm credit. There are a number of important points that must be addressed. First, I want to look at the causes of the problems facing farmers. Then I will explain the effects of nonperforming agricultural loans on the commercial banks that provide operating credit to farmers. Finally, I will discuss the approach that the Office of the Comptroller of the Currency (OCC) has followed in supervising these banks.

Unfortunately, American agriculture is going through a difficult period. Farm export earnings and asset values have dropped precipitously since 1980. Many farmers are experiencing serious cash flow problems because they borrowed heavily during the 1970s to expand their operations. Some of these farmers have already failed. Agricultural lenders have been directly affected by the problems of farm borrowers over the last few years. Both federal and private lenders have been hit by a dramatic increase in the number of problem loans. Moreover, most experts suggest that the problems of supply and demand imbalances and declining farm asset values will persist for at least the next year. The key to solving the agricultural bank problem requires a healthier agricultural sector, not changes in bank supervisory policy.

Description of the Farm Problem

The agricultural sector has run into problems because many farmers adopted business strategies based on expectations of continued inflation, rising land values and strong export growth. In the 1970s farmers borrowed heavily to expand their operations. Most of these land purchases were financed by sources other than commercial banks. From 1976 to 1981, farm debt doubled. Although the bulk of this lending came from the Federal government and the farm credit system, commercial banks also increased their farm lending by 37 percent. This increased debt occurred at a time of rising interest rates that resulted in much higher debt servicing requirements. Although farmers experienced only modest gains in cash flow, many could not use leverage their capital gains in farmland to develop additional acreage.

Unfortunately, the expectations of these farmers were misplaced. First, the rapid inflation of the late 1970s was brought under control and dramatically reduced. Second, farm commodity prices deteriorated at the beginning of

the 1980s due to a decline in exports, stagnant commodity prices, high interest rates, and increased production costs. As a result, land prices declined. Farmers who suffered the most were those who had mortgaged their future by speculating on rising land values. Many of the heavily leveraged farmers found themselves unable to meet the higher debt service requirements because of inadequate cash flow.

The farm problem is national in scope, but it is especially severe in certain parts of the country. Financing problems and foreclosures are concentrated in the Midwestern and Central states and among farms producing export sensitive crops like corn, soybeans, cotton and wheat. In the fall of 1984, the Federal Reserve Bank of Kansas City conducted a survey of its district and found that one farm in ten was undergoing full or partial liquidation.

Farm problems also vary with the size of the farm. In general, large farms continue to have adequate earnings and sufficient financial resources. Most owners of small farms have additional sources of outside income. The real problems are largely concentrated among mid-sized farms—those with annual sales of \$50,000 to \$500,000.

Mid-sized farms constitute 30 percent of all farms, but they account for 64 percent of all farm debt. Many mid-sized farms have come through several consecutive years of operating losses; and for them debt repayment is difficult. In fact, a recent USDA study estimates that 6.3 percent of mid-sized farms are already technically insolvent and another 7.4 percent are approaching insolvency. These 93,000 farms represent only 4 percent of all farms, but they hold over 20 percent of total farm debt.

Agricultural Banks Mirror the Condition of the Local Economy

Farmers get loans from a variety of private and public sources, including commercial banks. Banks have traditionally played a very small role in lending for the purchase of farmland, but they do provide about 40 percent of all operating credit for farms. The 14,400 commercial banks hold about \$51 billion in farm loans—that is less than one-fourth of the total farm debt. A little over half of this amount, or \$26.5 billion, is held by 4,100 agricultural banks. We consider agricultural banks to be those with farm loans exceeding

25 percent of their loan portfolio. The financial performance of each of these banks mirrors its local economy. The assets of agricultural banks equal about 4.5 percent of the total \$2.4 trillion in bank assets. Eighty-five percent of these banks are located in 13 states.

The condition of individual agricultural banks reflects the financial distress of their local farm communities. In a survey conducted by the American Bankers Association (ABA) in January 1985, agricultural banks said that 41 percent of their farm borrowers had a negative net farm income in 1984. In the same survey, agricultural banks expected 37 percent of their borrowers to have a negative net farm income again this year.

The increasing number of problem farm loans is cutting into bank earnings. In September 1984, 450 agricultural banks reported losses, up from 282 in December 1983. These banks are obligated to pay interest on their deposits, even when they do not receive interest payments on some of their loans. Agricultural banks with large portfolios of nonperforming loans clearly are caught in an earnings squeeze.

The net loan losses of agricultural banks have risen steadily since 1978. Fortunately, agricultural banks historically have had higher capital ratios than non-agricultural banks. Nonetheless, if financial conditions in the agricultural sector continue to deteriorate, we cannot expect these agricultural banks to make additional loans for which there is little likelihood of repayment.

The OCC is closely monitoring the condition of national agricultural banks. According to information from our examinations, on average, classified loans at these banks are now almost equal to their capital funds. Moreover, the number of national agricultural banks that have been placed on our watch list because of poor performance has doubled since June 1984. Over one-quarter of federally chartered agricultural banks are now considered problem banks (i.e., have a CAMEL rating of 3, 4, or 5). In some cases performance has been affected by bad bank management.

In many cases, however, the primary cause of poor performance can be traced to nonperforming agricultural loans. We believe that such problems are likely to continue to trouble agricultural banks over the next few years.

The Response of Bank Supervision

The fundamental economic problems of the agricultural sector cannot be resolved by changes in bank

supervision policy. The primary purpose of bank supervision is to preserve the safety and soundness of the banking system. To achieve that goal, we must be sure that depositors are protected. To assure institutional soundness, we must examine loan portfolios and classify loans when it appears they will not be repaid. But it is the banks, not the OCC, that decide who will receive a loan, how much to lend, what collateral will be required and how much time should be allowed for repayment. In fact, since the mid-1970s, OCC has encouraged banks to have written lending policies that include specific guidelines to answer these questions.

Bank examiners classify assets based on their prospects for timely repayment. Classifications include substandard, doubtful, and loss. To analyze these credits, examiners evaluate the source of repayment, the adequacy of collateral, and the ability of the borrower to repay the loan. These same factors are applied to all loans regardless of whether they are extended to agricultural, energy, real estate, or any other commercial entity.

In evaluating problem loans, examiners consistently apply standards in a cautious and prudent manner. The classification process is designed to identify the loans that will require careful management by the bank in order to be collected. The fact that a loan is classified does not affect the quality of the loan itself; it has no real impact on the borrower. Examiners have no interest in forcing foreclosures and have no desire to be unduly harsh in their criticism of loans. In fact, in the same ABA survey I mentioned earlier, 88 percent of the agricultural banks said there was no major disparity between their bank's problem agricultural loans and the findings of bank examiners.

Banks should not interpret classification of a credit by an examiner as a request for foreclosure. On the contrary, the OCC encourages banks to develop sound workout plans on all problem loans. We are well aware of the need to work with borrowers to find ways to ease the financing problems of the agricultural community. In fact, the OCC, along with the Federal Reserve, the Federal Deposit Insurance Corporation, and the Farm Credit System recently issued a joint statement reinforcing their longstanding policy of encouraging banks to work with farmers who are experiencing temporary problems. The statement is attached to this testimony.

The only time that the OCC will ask a bank to take a particular loan off its books is when the loan is considered uncollectable and is classified as a loss. Even in those circumstances, bank management—not the

OCC decides what action to take to achieve recovery.

In response to the problems of agricultural banks, the OCC has provided training for examiners and guidance to assure that standards are applied consistently throughout the country. We have supplemented our existing on-the-job and formal training programs with additional information on the evaluation of agricultural credits. The OCC's training program includes instruction on laws and policies, review of agricultural credit cases and collateral considerations, and attendance at state agricultural schools.

To keep examiners informed after they have completed training, OCC continually provides information and guidance on agricultural policy issues. This information is intended to foster greater consistency in the classification of agricultural credits. For example, in April and in August of 1983, OCC distributed materials to all examiners on the need for examiner sensitivity to agricultural credit problems. The intent was to increase examiner awareness of the difficult situation facing agricultural bankers and their borrowers. We also wanted to reemphasize the need for examiners to remain objective, consistent, and prudent in applying classification standards to loans.

In May 1984, an OCC examining circular directed examiners to use a set of uniform guidelines with standard criteria to review and evaluate risk in agricultural credits. In February 1985, the senior managers in our district offices received a memorandum providing additional guidance on the agency's agricultural policy. The memo also instructed these managers to continue to carefully review all examination reports containing criticized agricultural credits to ensure fairness and consistency of treatment.

The OCC has been monitoring the performance of the farm sector and participating in seminars with agricultural banks. Both district and Washington staff have analyzed data on farm problems. This information is sent to our field examiners on a regular basis. All these efforts are designed to make sure that our examiners are well trained, that they stay informed, and that they consistently apply uniform standards to loans in all parts of the country.

The OCC is also an active participant in the inter-agency task force on agricultural problems chaired by Secretary Block of the Department of Agriculture. This group has been working on programs to deal with the agricultural credit crisis in conjunction with the Administration's initiatives.

Conclusion

To maintain a sound banking system, examiners must classify those loans that will require careful management in order to be collected. Failure to carry out this responsibility will erode confidence in our financial system. Lenders, farmers and regulators share a strong common interest in the long-term success of the farm economy.

Appendix A

Joint Statement of the Federal Regulatory Agencies on Their Agricultural Credit Policy

The Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve System (FRS) and the Farm Credit Administration (FCA)—which regulates the farm credit system—are reinforcing their longstanding policy of encouraging banks and associations to work with farmers and small business borrowers who are experiencing temporary difficulties in meeting their debt service obligations. The regulators believe this policy is prudent provided the institutions' practices are generally consistent with safety and soundness considerations.

This statement of the agricultural credit policy of the Federal regulatory agencies is being provided to all examiners. This, along with other policy statements and regular training seminars on agricultural credit arranged for the examiners, is designed to ensure that farm credit problems will be handled with understanding.

All four regulatory agencies have recently emphasized to their examination staffs that although it is the responsibility of an examiner to point out to management the weaknesses which may be present in loans, the regulatory agencies do not require foreclosing or calling loans. Borrowers who are experiencing problems should work with their lenders, since they are the ones responsible for granting, restructuring and collecting loans. Lenders, farmers and regulators have a mutual interest in the long term success of the local farm economy.

The FRB, OCC, FDIC and FCA examiners, when analyzing a credit, consider the source of repayment, the adequacy of collateral and the ability of the borrower to repay the loan as the primary factors in assessing the quality of a loan. Generally, if a farmer is making cash payments to keep his debt service payments current and the lender and the examiner believe the farmer is able to continue to make timely debt payments, the loan will be considered a satisfac-

tory loan, even if surrounding land values have fallen significantly, and, therefore, the farmer's financial position may not be as strong as it was when the loan was made.

As has been the longstanding practice of the regulators, experienced review examiners in the regional offices will continue to analyze the examination reports submitted by examiners to ensure that they are in conformance with the above policies prior to their transmittal to the banks and associations. Before leaving each lending institution, the examiners will discuss their report findings with the management to make sure there is no misinformation regarding the institution's credit policies and procedures or loan classifications. Should a lender have additional questions or comments about the examination report, the lender may seek a formal review of the matter with the local regulatory agency office.

Statement of C. T. Conover, Comptroller of the Currency, before the House Subcommittee on Commerce, Consumer, and Monetary Affairs of the Committee on Government Operations, Washington, D.C., March 27, 1985

Mr. Chairman, members of the Subcommittee, I am pleased to have the opportunity to offer the views of the Office of the Comptroller of the Currency on reforming the federal financial regulatory structure.

There are a number of important steps that must be taken when evaluating any proposed reform of the regulatory structure. I would like to address those steps in my testimony today.

First, in considering reform, we must not lose sight of the goals of federal financial regulation. Second, we need to review how the financial system has changed since the creation of our present structure and how it will likely change in the future. Third, we must identify potential problems and weaknesses in our existing regulatory structure. Only then can we evaluate the recommendations of the Bush Task Group in terms of how they might improve the existing framework.

Goals of Federal Financial Regulation

There are two fundamental goals of federal financial regulation. The first is to foster and facilitate a competitive and vital financial system. The public is best served by a competitive market with firms free to enter the market, to offer customers a wide range of products and services, to innovate, and to succeed or fail.

The other goal of regulation is to balance the need for

Over the past several years, some farmers and farm sector borrowers have been subject to financial pressures resulting from depressed commodity prices, declining land values and the aftermath of drought. These financial pressures have resulted in increased delinquent loans in the portfolios of agricultural sector banks and associations. Some of these problems are transitory and it is reasonable to expect economic conditions in the agricultural sector to improve. Examiners will keep in mind that, under such circumstances, agricultural lenders may find that the most prudent policy is to stretch out payments rather than to take more precipitous action such as foreclosure and/or forcing a borrower into bankruptcy. Such a policy does not alter requirements on the recognition of loss loans or the accounting treatment of nonperforming or nonaccrual assets by financial institutions.

a competitive and responsive financial system against certain national interests that may not be achieved solely through the efficient functioning of the market. The national interests that are promoted through formal regulation include:

- Maintaining an efficient payment system,
- Preserving a stable money supply,
- Assuring broad credit availability, and
- Preventing undue concentrations of economic power.

These national interests are served through maintaining a strong central bank, providing federal deposit insurance, and regulating and supervising depository institutions to assure a safe and sound financial system. The two goals, facilitating a free market and serving the identified national interests, are often conflicting. The ideal regulatory structure will achieve a balance between the two goals.

Changes in Our Financial System

The second step is to review how the financial system has changed. We are all aware of the fundamental forces that are reshaping the financial services industry. They include inflation, volatile interest rates, erosion of geographic barriers to competition, erosion of product market barriers, deregulation of the liability side of the balance sheet, the revolution in technology

demographic shifts, and finally, the role of the government.

The financial marketplace of the future is likely to be increasingly heterogeneous and competitive. As mandated distinctions between market participants continue to erode, depository institutions will continue to expand their products and services. Geographic barriers to competition will eventually disappear, and electronic data transmission will be even more important in the delivery of services. New entrants will continue to emerge, putting pressure on existing firms to improve the quality of their services.

In the face of such change we must assess whether existing policies, regulations, and laws are appropriate and introduce reforms that will guide the financial system through this period of change. The condition of the financial system in the coming decade will reflect not only the forces of the marketplace, but also decisions made in the public sector—by the Congress and the regulatory authorities.

Nevertheless, the goals of regulation will remain essentially the same as they are today. Government will be asked to balance the need for a competitive and vital financial system against other national interests.

Potential Problems in Existing Regulatory Structure

The third step is to identify potential problems and weaknesses in our existing regulatory structure. When it was originated, our present system of federal financial regulation was basically one of regulation by function. The functions were directly related to the limited range of products offered by each type of institution. Financial institutions tended to fill specific roles, each industry offering a different product to its customers. For instance, in terms of credit offered to borrowers, each depository institution had its specialty: e.g., commercial loans for banks, residential mortgage loans for thrift institutions, and consumer loans for credit unions. Functional regulation was achieved because each regulator focused on a particular type of institution.

While the distinctions between banks and thrifts and between depository and nondepository institutions used to be clear, such institutional differences are disappearing. Different types of financial institutions increasingly offer similar products and services and compete in the same markets. As the industry has changed, the federal regulators have evolved into multipurpose supervisors, overseeing a variety of functions, many of which are duplicated by other supervisory

As a result, the existing regulatory structure is becoming too complex and cumbersome. Regulatory agencies face conflicting missions. We currently have multiple agencies performing the same functions. There are five federal agencies with primary federal regulatory and supervisory responsibilities over federally insured depository institutions. There are three federal deposit insurers. Three federal agencies perform a liquidity function. And banking agencies share responsibility for antitrust enforcement, consumer protection, and securities disclosure requirements with the Justice Department, the Federal Trade Commission, and the Securities and Exchange Commission.

Moreover, one or more state regulatory agencies in each of the 50 states are responsible for supervising the state-chartered institutions. In the last 7 years, Congress added two more federal regulatory bodies: the Federal Financial Institutions Examination Council and the Depository Institutions Deregulation Committee.

The existing framework is also becoming increasingly inefficient. Supervision of bank holding companies and their component parts provides an excellent example of this inefficiency. A majority of multibank holding companies contain at least one bank which is nationally chartered and at least one bank which is state chartered. Indeed, it is not uncommon for a holding company system to include national banks, state member banks and state nonmember banks, sometimes in several states.

The possibilities for regulatory confusion and duplication are real and present concerns. It is not sensible for a multiplicity of regulators to have safety and soundness jurisdiction over various segments of an integrated business enterprise. Inevitably, this approach will be at times conflicting and uncoordinated. Moreover, the existing framework confronts bank managers with duplicative and sometimes inconsistent regulatory demands.

As a result, with time the market will become less and less efficient. The extra cost of complexity will be paid for by regulated institutions and by the consumers that utilize their products and services.

Benefits of the Bush Task Group Recommendations

I believe that the recommendations of the Bush Task Group represent a clear improvement over the existing regulatory structure. That is why I supported them. They would facilitate a free market and serve the identified national interests.

While the recommendations represent significant compromises by the participants, there are two important points to bear in mind. First, they reflect the concerns of the 13 federal regulators and policy makers who signed them. And, second, they move us toward federal regulation by function.

There are four specific improvements which the Bush Task Group proposal would make to the existing regulatory framework.

- First, creation of the Federal Banking Agency would be a step towards a single federal supervisory agency. All but the largest national bank holding companies would be regulated by the same regulator as their national banks. And this same regulator, the FBA, would have regulatory authority to determine the activities in which bank holding companies can engage.
- Second, delegating supervision of state-chartered depository institutions to the states that are qualified and want to be certified would get the federal government out of an area of regulation better served by the states.
- Third, removing from the Federal Deposit Insurance Corporation supervision responsibilities

that are not directly related to its role as deposit insurer would be a step towards a single-purpose federal deposit insurance agency

- And fourth, those regulatory functions that are not unique to depository institutions would be performed by the agencies that perform them for other industries. The consumer protection laws could be enforced by the Federal Trade Commission. The antitrust aspects of mergers and acquisitions would be the responsibility of the Justice Department. And the Securities and Exchange Commission would regulate bank securities activities.

Even more important than these improvements is the fact that the recommendations give a clear indication of the need to make the necessary changes to facilitate a competitive and vital financial system. Reorganization of the regulatory structure is only one of those necessary changes. We also need to provide depository institutions and their holding companies with the ability to offer a wider range of products and services without geographic restrictions. Further geographic and product deregulation together with regulatory reorganization would be the surest and quickest path to a competitive and vital financial system.

Statement of C. T. Conover, Comptroller of the Currency, before the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the Committee on Banking, Finance, and Urban Affairs, Washington, D.C., April 3, 1985

Mr. Chairman, members of the Committee, I am here today to discuss compliance with the reporting provisions of the Bank Secrecy Act. The conviction of the First National Bank of Boston (FNBB) for currency transaction reporting violations in February raised public concerns regarding the implementation of that Act. These concerns have been heightened recently by a flurry of publicity about the various banks and other financial institutions that are coming forward to report similar reporting omissions. Obviously there are widespread problems in this area affecting the entire financial services industry.

The Office of the Comptroller of the Currency shares the public's concerns; we have been reviewing the facts to determine what went wrong in those cases that involved national banks, and what we should do differently in the future. Obviously, the primary responsibility for complying with the law rests with the banks. However, we have concluded that there was an insti-

tutional failure on the part of the OCC management relative to our responsibilities under the Bank Secrecy Act, and that a program of corrective actions needs to be undertaken.

Today, I will describe how we carry out our responsibilities regarding the Bank Secrecy Act in the context of our overall examination process. Then I will discuss what we are doing to improve our efforts to ensure that national banks comply with the Bank Secrecy Act

The Examination Process

The statutory mandate of this Office is to assure that national banks operate both in conformance with safe and sound banking practices and in compliance with the many and varied statutes affecting bank conduct. With regard to the Bank Secrecy Act, Congress has assigned lead responsibility to the Treasury Department. Treasury, in turn, has delegated limited authority for supervising compliance with the Act to the various federal banking and other supervisory agencies. The

Compliance Officer is responsible for monitoring the Bank Secrecy Act compliance of national banks while Treasury has retained authority over enforcement, interpretation, and exemptions from the reporting requirements of the Act. Once a criminal investigation is initiated, we are usually asked to stop examining the bank in question for Bank Secrecy Act compliance. From that point until the investigation is completed, we have no knowledge of the bank's compliance in that area.

Overall Examination Procedures

In carrying out our supervisory responsibilities, our examiners conduct off-site analysis of reported financial data as well as performing periodic on-site examinations. In evaluating the ability of examiners to effectively investigate a bank's compliance in any particular area, it is important to understand the scope and practical limitations of the examination process.

The essential objectives of an examination are: 1) to provide an evaluation of a bank's financial condition; 2) to permit the OCC to appraise the quality of bank management and directors; 3) to identify those areas where corrective action is required to strengthen the financial condition and management of the bank; and 4) to identify and seek corrective action where compliance with applicable laws, rulings, and regulations is inadequate. Procedures utilized to meet these objectives include evaluation of the quality of assets and earnings, the adequacy of capital and liquidity, adherence to laws and regulations, the adequacy of internal control and audit procedures, and the prudence of practices and operations. Literally thousands of steps comprise the OCC's examination procedures. In addition to carrying out the examination procedures, the examiner is expected to make a qualitative analysis of the bank and any trends or conditions that have the potential to weaken the future condition of the bank.

Not all of the procedures are followed in every bank examination. Resource considerations and the sophisticated and complex nature of the banking system require that an examination be tailored to the character and condition of the bank being examined. It is particularly important to direct our efforts to areas that are posing the greatest risk or otherwise causing the greatest concern. We focus on management's and the board of directors' ability and commitment to sound management that is both prudent and in compliance with the law. This means we pay special attention to management strategies, controls, and systems, as well as the expertise of the examiners and examiners

tion or supervision works as well as a bank's own internal control systems.

The systemwide allocation of our examination resources is also determined by a continuing assessment of where the greatest risks or areas of concern lie. Priorities are established based on analysis of reported data as well as general economic trends and other indicators of potential problems. For example, problems over the last several years have included the economic declines in the agriculture and energy sectors. As a practical matter, directing examination resources toward banks that are experiencing problems relative to these sectors results in those banks that are in healthier economic environments being visited less frequently. We are able, therefore, to intensify our efforts regarding the growing number of banks experiencing difficulty. This is the only way we can determine the extent of the problem, institute corrective measures, and assure that depositors are protected.

Bank Secrecy Act Compliance

There are millions of cash transactions in a typical bank office each year. Examiners routinely review few, if any, of these transactions. Rather, they focus more on a bank's own internal control systems.

Our current procedures were developed in 1981 on an interagency basis. This joint effort, involving the Treasury Department, the Federal Reserve Board and the Federal Deposit Insurance Corporation, followed the 1980 amendments to the Bank Secrecy Act regulations and a 1981 General Accounting Office study on the Act's effectiveness. The procedures employ a two-module approach.

The first module consists of a three-part evaluation of the bank's compliance with the Bank Secrecy Act. The first part is an evaluation of the bank's internal and external audit coverage of Bank Secrecy Act compliance including testing of its effectiveness. The second part is an evaluation of the internal controls that bank management has implemented and is practicing to ensure compliance with the Bank Secrecy Act. The third part is an actual examination of a bank's compliance including a first hand determination of whether the Currency Transaction Reports (CTRs) are correctly filed, whether the bank's exemption list is reasonable, whether the bank's relevant operations personnel are sufficiently trained as to the Act's requirements, and whether the cash shipments to and from the Federal Reserve System compared to the CTRs indicate a potential violation of law. As with all examination procedures, the determination of how much of this module is done during a given examination is at the discretion of the Examiner-in-Charge.

If the examiner determines, based on the first module of the examination, that deficiencies exist that may indicate a significant compliance problem, selected procedures from the second module are performed to the extent necessary to determine the exact scope of the problem. This second module involves verification procedures including on-site review of actual transactions for selected time periods. Detailed criteria are provided for selection of tellers and types of transactions to review. Compliance is determined by an elaborate cross-checking and reconciling of transactions, customers, and report forms.

Clearly the examination process by itself cannot find all compliance violations. Just as with other areas of the examination process, we utilize external information to provide guidance on where to concentrate our resources. One way this occurs is through analyses provided to this Office by the Treasury Department. These analyses pinpoint institutions that exhibit unusual patterns of currency shipments relative to their CTRs. This approach is not unlike that utilized by the Internal Revenue Service in monitoring compliance with the tax code. Neither we nor the IRS could conceivably check every required filing or assure that everyone is obeying the law. The use of leads permits us to target compliance efforts more efficiently and effectively.

A notable example of the effectiveness of this approach is Operation Greenback in 1980. Florida was targeted as a region exhibiting potentially serious Bank Secrecy Act compliance problems. A major initiative was launched, involving the OCC and other bank supervisory and law enforcement agencies. We provided the assistance of over 40 examiners to this effort. The operation lasted 4 years and resulted in 255 indictments and 109 convictions.

Operation Greenback had a positive impact on Bank Secrecy Act compliance extending beyond the Florida region. The examination techniques developed and utilized during that time were the basis for the revisions in examination procedures adopted by the supervisory agencies in 1981. In addition, Operation Greenback spawned numerous Treasury task forces nationwide. These task forces, of which the OCC is often an active participant, have produced over 1,300 indictments and over 460 convictions since 1980. Finally, since the beginning of 1980, the annual number of CTRs filed has grown more than five-fold. During that same period, OCC cited more than 32,000 violations of the Bank Secrecy Act, involving more than 2,800 national banks.

OCC Actions Regarding First National Bank of Boston

The events related to OCC's part in the investigation of FNBB's compliance with the Bank Secrecy Act are detailed in an appendix to this statement. While I will not reiterate these events, I would like to provide an assessment of our actions in this case.

We provided examiners to assist in the investigation on two separate occasions, but we have learned that we could have been more responsive. We believe that we have adequate examination procedures regarding Bank Secrecy Act compliance, but we have learned that we could have been more effective in implementing them. We have a highly competent examination force that receives extensive training, but we have learned that training in the Bank Secrecy Act area has been uneven. Finally, while we responded to Treasury's notification about potential compliance problems at certain Massachusetts banks, we have learned that we could have been more diligent in doing so.

As I stated earlier, a key factor in establishing examination priorities is receiving external information that identifies potential problems. However, when we were notified by Treasury in 1982 about nine Massachusetts banks, we did not devote sufficient attention and follow-up. We could have done a more vigorous compliance review during the 1982 examination of FNBB. It has recently become clear that the examiners in FNBB were not familiar with the enhanced examination procedures put in place in 1981 and the specific reporting requirements as revised in 1980. Although we have not completed our review of the situation at the other eight banks, there are indications that some of these shortcomings may have also existed in examinations at those banks.

We view this as an institutional, rather than an individual, failure. While we have always been committed to our responsibilities for monitoring Bank Secrecy Act compliance, it would appear that the balance of agency priorities, due to the problems facing the banking industry in recent years, has shifted increasingly toward the protection of depositors and the safety and soundness of the industry. We do recognize that a firm commitment to enforcing compliance with the Bank Secrecy Act must be reconfirmed at the highest levels of the OCC.

Improvements for the Future

This Office is committed to take action to ensure more effective discharge of our responsibilities under the

Bank Secrecy Act. Specifically, we are taking the following steps:

1. Undertake a Thorough Review of OCC's Actions Regarding the Nine Massachusetts Banks

An internal study of our response to Treasury's September 1982 memorandum regarding Bank Secrecy Act compliance in Massachusetts is now underway. This will be an in-depth review and assessment of our performance, in order to more definitively identify the institutional shortcomings involved and any additional steps we can take to ensure better performance in the future. In addition, we welcome the fact that the GAO will be undertaking a similar review.

2. Ensure Effective Compliance Examinations in Massachusetts

We are reviewing the compliance procedures performed in the Massachusetts banks targeted by the Treasury Department. Teams of examiners from other areas of the country (including the Southeast District where examiners were involved in "Operation Greenback") have been assembled and are currently reviewing the procedures utilized and the examination results. Except where otherwise requested by Treasury, the examiners will conduct on-site visits to review any deficiencies and properly complete the examination process, thereby ensuring thorough reporting of any deficiencies to the Treasury Department.

3. Improve Internal Communications

We are stepping up our efforts to effectively communicate and implement OCC policies and procedures in the Bank Secrecy Act area. This is being done through continual updating of the *Comptroller's Handbook for National Bank Examiners*, through several internal memoranda directed to both field examiners and supervisory personnel at all District and Washington office levels, and through the issuance of Examining and Banking Circulars that specifically direct compliance actions to be taken. Drafts of upcoming Examining and Banking Circulars have recently been forwarded to Treasury to provide them an opportunity for review and comment. Finally, we are establishing new quality control systems to ensure that appropriate examination procedures are being properly used.

4. Intensify Examiner Training

Training efforts are being stepped up in the Bank Secrecy Act area. We are striving to ensure that all examiners are fully knowledgeable of the Act and its requirements and that all examiners are being fully profi-

cient in performing examination procedures in this area.

In the future, all newly hired examiners will be required to demonstrate proficiency in this area before they will be eligible for promotion or assigned to examine for Bank Secrecy Act compliance without the supervision of a fully trained examiner. This training will utilize both formal classroom and on-the-job instruction by qualified people in this field.

Regarding training for existing examiners, each District is incorporating training on the Bank Secrecy Act into its regularly scheduled meetings with examiners and District-wide staff training conferences. Also, attendance at the white collar crime school will be required for all senior level national bank examiners. In this school, an expert from the U.S. Customs Service conducts a special session on the Bank Secrecy Act.

5. Continue Efforts to Improve Interagency Cooperation

The new examination procedures adopted in 1981, along with the evolving systems utilized by Treasury to spot anomalies, have the potential to greatly enhance the ability of the federal government to monitor compliance and detect violations of the Bank Secrecy Act. However, steps need to be taken to improve the coordination between this Office and the Treasury Department regarding the analyses of institutions exhibiting anomalous currency movements. Both Treasury and this Office can make this coordination more effective and we stand ready to work with Treasury toward this end.

As another step to coordination and cooperation, this agency has played a major part in a Task Force created by the Attorney General and endorsed by all of the bank regulatory agencies. Many of the proposals of the Task Force will ensure that substantial coordination of efforts will be achieved. Matters of particular importance that have been agreed upon include:

- Modification and streamlining of the handling of criminal referrals;
- Improvement in the exchange of information between the regulatory agencies and the law enforcement community, through both proposed legislation and modification of internal procedures;
- Joint training courses to ensure interaction between investigators and examiners, and
- Establishment, both in the bank regulatory

agencies and the law enforcement communities, of points of contact for facilitating resource requests.

The OCC is continuing to communicate to all law enforcement authorities its commitment to assist them in their investigations involving national banks or their officials. Similarly, the OCC, as a member of the Federal Financial Institutions Examination Council will be working closely with the Treasury Department and the other members of the Council to determine if our methods of combating money laundering can be improved.

6. Strengthen Management Controls Over Implementation of Bank Secrecy Act Responsibilities

The OCC is fully committed to its compliance responsibilities, including the Bank Secrecy Act. We are taking steps to ensure that our commitment to carry out our responsibility regarding the Act is communicated throughout the agency. In addition to the increased training, communications, and cooperation described above, we are centralizing responsibility for all information flow and supervision in this area. Also, in each Field Office and District Office, Bank Secrecy Act compliance experts are being identified and will head up compliance examination efforts.

In addition to these immediate efforts, we expect that several recommendations for action will result from our internal review. At a minimum, we would expect to identify areas for improvement in our quality control and management information systems.

While this Office can look inward and find ways of improving its efforts, it is important to recognize that law enforcement agencies and bank regulators can only provide a small part of the solution. The attitude and self-policing efforts of banks are critical to compliance with the Bank Secrecy Act. No amount of regulatory supervision works as well as a bank's internal control processes.

To that end, OCC has continually informed national banks of their responsibilities under the Act through banking issuances, through the examination process, and by regularly participating in conferences and other public forums where Bank Secrecy Act compliance is being discussed. We are now complementing those efforts with roundtable discussions with the American Bankers Association regarding their endeavor to help member banks assure that they have appropriate compliance programs in place. Additionally, we have been participating with the IRS in discussions with groups of bankers in certain states regarding compliance responsibilities.

Conclusion

Recent events have caused this Office to recognize the need for a more effective commitment to monitoring Bank Secrecy Act compliance. We have introduced a program of improvements that we are undertaking, and are prepared to submit to the Committee in 6 months, a report on our progress. We also believe that the attention this area is now receiving has and will continue to have a salutary effect on the industry's compliance efforts. With improved efforts and coordination at the federal level and greater industry awareness, enhanced compliance with the Bank Secrecy Act should be achieved.

Chronology of Events

On February 26, 1985, the Office of the Comptroller of the Currency (OCC) provided a letter to several Congressional Committees explaining its preliminary understanding of its actions related to Bank Secrecy Act compliance in the First National Bank of Boston (FNBB). On March 1, a second letter was provided those Committees elucidating one particular point related to the 1982 examination of FNBB.

Subsequent to those letters, OCC has continued its efforts to determine with more specificity what actions were taken by all persons involved. This Appendix recites the information that has resulted from those efforts. As more completely developed, our understanding remains generally consistent with our earlier letters. In some particulars, however, modification of that information is necessary.

1. Much of OCC's recent experience with Bank Secrecy Act compliance began with Operation Greenback, a Treasury Department initiative that was formally commenced in 1980. From OCC's perspective, Operation Greenback resulted in the issuance of numerous enforcement actions designed to ensure compliance with the Bank Secrecy Act. In addition, Operation Greenback resulted in the development and implementation of improved regulatory systems to identify areas of possible noncompliance by financial institutions. These developments primarily included the Treasury-approved and FFIEC-adopted procedures issued in November 1981 by the OCC and the improvement of techniques through which the Treasury Department aids OCC in attempting to identify noncomplying institutions.

2. In October 1981 OCC conducted a specialized examination of the First National Bank of Boston. That examination did not use the revised 1981 Bank Secrecy Act procedures because they were not issued.

until after the relevant portions of the examination had been completed. No violations were cited.

3. During the summer of 1982 the OCC was informed that the Treasury Department was targeting Massachusetts banks for compliance with 31 CFR Part 103, the regulations implementing the Bank Secrecy Act.

4. In April 1982, Treasury Deputy Assistant Secretary (Enforcement) Robert E. Powis requested that all Massachusetts banks forward their exemption lists to him.

5. On June 3, 1982, Mr. Hubert Cox, Manager, Banking Offices Administration, FNBB, forwarded the bank's exemption list to Treasury.

6. On June 8, 1982, Mr. Robert J. Stankey, Senior Adviser, Office of Enforcement and Operations, Department of the Treasury, returned the list to FNBB, stating that he had marked certain of the listed customers who might not belong on it without Treasury approval. Mr. Stankey requested further information from the bank to support inclusion of these customers.

7. During that summer, as part of its Massachusetts enterprise, Treasury requested assistance from the OCC in tabulating currency receipts at the Federal Reserve Bank of Boston relating to the flow of currency in and out of that institution.

8. OCC's Boston Regional Office assigned that task to two Assistant National Bank Examiners.

9. In late June, 1982, these examiners assisted an Internal Revenue Service employee who had been detailed to the Treasury Department in the tabulation of the currency receipts at the Reserve Bank covering the period January through April 1982. In July, the OCC received from the Treasury Department a letter commending the examiners on their diligent efforts which materially contributed to the success of the project.

10. On September 7, 1982, OCC commenced another regularly scheduled examination of FNBB. One of the examiners who had previously assisted in the tabulation of currency receipts was assigned to conduct the cash program of the examination.

11. On September 21, Deputy Assistant Secretary Powis sent a memorandum to OCC's Chief National Bank Examiner conveying the results of the earlier review of Massachusetts banks' currency shipments to and from the Federal Reserve Bank of Boston, their exemption lists, and Treasury's records of their cur-

rency transaction report filings. The memorandum indicated:

a. "[C]ompliance with the reporting requirements of the Bank Secrecy Act by banks in Massachusetts [was] very low."

b. "[N]otable lack of understanding of the exemption provisions in the [Bank Secrecy Act] regulation." The memo also stated that "each exemption list received from the banks required additional contact to perfect the information reported or to require removal from the lists of non-qualifying bank customers", and

c. The number and dollar amount of Currency Transaction Reports filed by banks in Massachusetts during the review period was "not consistent with the large volume of currency" activity between the Federal Reserve Bank and its members.

12. Attached to Mr. Powis' memorandum was a list of nine national banks that "conducted substantial currency transactions with the Federal Reserve Bank of Boston during the period covered by [Treasury's] review (January to June 1982). The schedule also provides data on the number and dollar volume of Currency Transaction Reports filed by each bank during the same period. . . . All of the data indicate that a special compliance enforcement effort will be required, especially by the Federal agencies that supervise commercial banks, to raise the compliance level."

13. The September 21 memorandum also noted that an examination of FNBB was underway and said "Our review indicates that the First National Bank of Boston, which appears to purchase the largest amounts of currency from the Federal Reserve Bank of Boston . . . has a very low level of compliance with the Bank Secrecy Act."

14. The memo went on: "The officer in charge of currency operations at that bank, in contacts with my office regarding exemption lists, has informed us that he is not completely familiar with the provisions of the Bank Secrecy Act regulations."

15. Finally, the memo requested "a special feedback report on the 31 CFR 103 compliance examination of the First National Bank of Boston" and noted "We are especially interested in the trans-shipments of currency by the bank to correspondent banks and internationally. The information concerning correspondent activity is needed to assess the compliance of the correspondent banks that do not deal with the Federal Reserve Bank."

16. The September 21 memorandum was sent to the Examiner-in-Charge while the examination at FNBB was still in progress. At the time the memo was received, the Assistant National Bank Examiner assigned to the cash program had already completed those procedures of the examination, including the 31 CFR Part 103 procedures. Copies of the memo were also placed in the files of the other eight national banks pending their next regularly scheduled examination.
17. As a result of Treasury's memorandum, the Examiner-in-Charge took the Assistant who had done the cash program back to the bank to follow up on the concerns that Mr. Powis had articulated.
18. The Assistant reviewed currency activities at FNBB, focusing on the reasons why few currency transaction reports had been filed given the substantial amount of currency the bank was receiving from the Federal Reserve and sent to its domestic and foreign correspondent banks, its own branches and other customers.
19. The Assistant reconciled the January through April trans-shipments of currency from the Federal Reserve, through FNBB, and on to these customers, with the number of Currency Transaction Reports filed.
20. As a result of this reconciliation, the Assistant reported in an October 8, 1982 memorandum to his supervisors that "[t]he First of Boston is a wholesale operation, selling large amounts of currency to various banks through New England. These amounts substantially account for the discrepancy noted."
21. Based on this determination, the Assistant concluded that the bank was in violation of 31 CFR 103.22 because it had failed to include the names of the domestic banks with which it had engaged in these currency transactions on its exemption list.
22. The October 8 memorandum also reported that the Assistant had been advised by FNBB Vice President and Officer in Charge of Coin and Currency Operations Dan Dormer that Mr. Dormer was "unaware of the regulations concerning international transactions, and as such had not reported them. He stated that all International Currency shipments could be traced over the past 4 years. This would take approximately 3 weeks to complete. He has been in contact with a Mr. Stankey of the Enforcement and Compliance U.S. Treasury Department on this matter." No further actions were taken by the examiners with respect to the international currency shipments.
23. Subsequent memorandum and recollections of OCC staff causes OCC to believe that it provided this memorandum and the supporting work papers to the Treasury Department. The OCC has formally requested the Treasury Department to search its offices and to request searches of IRS and Customs in an effort to locate the original memorandum. OCC has provided various congressional committees with copies of the memorandum.
24. On December 8, 1982, Deputy Assistant Secretary Powis sent another memorandum to OCC, indicating that he would like to obtain information about the other eight national banks covered in his September 21 memorandum.
25. On January 4, 1983, OCC's Boston Regional Administrator placed a memorandum in his files reporting that he and the Examiner-in-Charge of the FNBB examination had met that day with a representative of the U.S. Customs Service to provide the latter with "an update of [OCC's] examination findings in the recently completed First National Bank of Boston." The Customs official informed the Regional Administrator that a task force was being assembled under the direction of the local U.S. Attorney to focus on money laundering through the banking system. The Regional Administrator and the Examiner-in-Charge provided a briefing on the FNBB exam findings and offered to participate in any organizational meetings for purposes of assisting the task force in developing a strategy. The Regional Administrator also informed the U.S. Customs Service representative that he would have to consult with the Washington Office to determine what role they could play in assisting the task force and that he could not provide a copy of the October 8 memorandum from Assistant Rollo until he obtained permission from the Washington office.
26. While a copy of that file memorandum was sent to the Washington office, any request for permission to release the document would have been oral. The Regional Administrator recalls having discussed this matter with the then-Director of the Enforcement and Compliance Division. While current personnel do not recall receiving the call, if one was made the standard practice would have been to request a memorandum of the facts so that authorization could be granted and probably a grand jury subpoena requested.
27. On or about March 7, 1983, a National Bank Examiner in the OCC's Washington Commercial Examinations Division who had been assigned the responsibility of preparing a response to Treasury's December 8 request discussed the matter with a Treasury official who identified six of the nine banks as of particular concern, and then contacted the Boston Deputy Regional Administrator to ascertain the status

of 31 CFR Part 103 compliance examinations at these banks.

28. In that conversation, information was provided about the scope and timing of the examinations for the six banks. The Washington examiner understood that 31 CFR Part 103 "verification procedures" had been or would be used in performing the examinations of each of the six banks. Such "verification procedures," when used as words of art, refer to a particular, intensive set of auditing procedures set forth in the November 1981 revisions to the examination procedures.

29. As a result of this conversation, a letter was forwarded by the Chief National Bank Examiner to Deputy Assistant Secretary Powis on April 5, 1983, summarizing the status of the OCC's examinations of these six banks, and assuring him that verification procedures had been or would be used in the examinations and that expanded procedures had been used in the others. In addition, the letter stated that the OCC would forward information about violations for any of the Massachusetts banks examined through the regular 31 CFR Part 103 report, which OCC provides to the Treasury Department on a quarterly basis. While the fact that these assurances were included in the April 5 letter was recited in OCC's February 26, 1985, letter to several congressional committees, our subsequent internal inquiry has determined that such procedures were not used at any of those banks. The procedures actually used in each of the six banks were selected by the examining personnel on site, based on all of the circumstances involved and with varying degrees of thoroughness. Verification procedures were not used because the examiners assigned to examine these banks never received such instructions from the Boston OCC office.

30. On April 27, 1983, the OCC was officially advised that the IRS was undertaking an investigation of possible criminal violations of 31 CFR Part 103 at FNBB and was instructed to refrain from examining FNBB for compliance with 31 CFR Part 103 to preclude any interference with that investigation. On May 5, 1983, OCC's Washington office acknowledged receipt of that notification and alerted the Boston Regional Administrator.

31. As of this date, any report on the results of OCC's examination of the five banks other than FNBB has been provided to the Treasury Department only through the regular 31 CFR Part 103 quarterly reports.

32. On May 26, 1983, OCC's Washington office was contacted by Treasury with a request for OCC assistance in conducting a review of certain currency transactions from the Republic of Panama through the Federal Reserve Bank of New York. A large quantity of this currency was said to have reached an Edge Act subsidiary of FNBB's holding company.

33. While OCC initially undertook to provide assistance, it soon became apparent that Treasury wanted OCC personnel to conduct an on-site examination of the Edge Act corporation's currency activities. OCC made plain its willingness to provide off-site assistance to Treasury, but explained that the Federal Reserve Board had primary regulatory jurisdiction over Edge Act corporations and recommended that Treasury seek on-site assistance from that agency. Treasury did not request further assistance from OCC on that matter.

34. In a memorandum dated October 23, 1984, Treasury asked OCC to provide a bank examiner to assist the U.S. Attorney on a fulltime basis as an agent of the grand jury conducting the investigation of FNBB. OCC approved this request in December 1984, and two examiners, one of whom had performed the 1982 cash program, were made available.

35. The two examiners briefly worked with the grand jury, reviewing FNBB records of international currency shipments and providing information about international banking practices.

36. During OCC's recent review of its handling of the FNBB matter, the staff has had several discussions with the Assistant United States Attorney in charge of the criminal investigation. He informed us that he had been dissatisfied with the level of cooperation he had received from the two examiners. Pending further inquiry into the facts and circumstances surrounding the Assistant United States Attorney's concerns, we did not bring his concerns to the attention of the Committee staffs.

37. Press reports, during the week of March 25, 1985, of additional unreported currency transactions involving foreign financial institutions and First Boston appear to involve the holding company's Edge Act corporation rather than FNBB.

Remarks by H. Joe Selby, Senior Deputy Comptroller for Bank Supervision, before the Eighth Annual Bank Auditors Conference, Bank Administration Institute, Washington, D.C., April 15, 1985

It's a great pleasure to be here today. Most people would shudder at the thought of being trapped in a room full of auditors on tax day—even bank auditors! But I think that you may be the most important audience I will ever face in my role as bank supervisor. That high praise deserves an explanation.

I believe that the auditor is the conscience of the bank. And if that is a valid belief, then all of you corralled into this room collectively represent the conscience of the banking industry. Routinely, through the examiners that work for me, I can confront and influence the conscience of an individual bank during an examination. But I can think of no other forum where I can confront, inform, and possibly influence the collective conscience of the industry—that's both a challenge and an opportunity that I welcome.

I was asked to speak today on the future of banking. As I worked on my remarks, it became apparent that I really was not able to protect or predict the future of banking. Yesterday, my minister's sermon was entitled "New Every Morning," the theme being that with the tensions of the present and a longing for the past, nostalgia or a longing for escape is not a viable alternative. You cannot escape change for long. I discovered that that message applied to bankers and regulators, as well as churchgoers.

Banking is caught up in a maelstrom of change. And we all know that change breeds tension and stress. The banking industry, and those that supervise it, are under severe strain! Banks from the entry of new competition every day from even inconceivable sources; from the introduction of new products unfamiliar to experienced commercial bankers; from the prolonged weaknesses of certain sectors of the economy, as well as the severe downturn in other sectors of the economy; from proposals for re-regulation and other regulatory restrictions; and finally, from a public and from investors who are much more sensitive to the health and ills of the banking system, particularly to individual institutions.

Regulators are strained: to cope with a rapidly changing financial industry; to account to a Congress holding us responsible for mistakes in the banking industry; to pressures of a growing industry, where our increased responsibilities are forcing us to be resourceful in seeking new ways to supervise.

What Has Changed

For five decades, the business of banking was based on activities restrictions and protected markets. The list of activities banks could engage in was narrowly defined. Geographic restrictions protected institutions from outside competition, and interest rate ceilings kept costs down.

Now, however, the financial service industry is undergoing the greatest degree of change in its history. We are all participants in that change. As such, we have a vested interest in seeing that the result is a free and competitive marketplace in which everyone has the opportunity to thrive and flourish. The ongoing changes do mean that bankers face an increasingly competitive and uncertain environment.

The forces behind the change have been many. The financial market is no longer local; it has become national, even global, in scope. Deregulation has played a major role in reshaping the financial system. And technology has made it possible to do things more quickly and cheaply than anyone could have imagined 50 years ago. There have been a host of cultural and social changes in our society that have resulted in a more sophisticated and demanding customer. As each segment of the financial services industry has tried to react to these changes, the net result has been a significant increase in competition in the marketplace.

With the progress in deregulation in recent years, banks are now paying market rates for deposits. Geographic market restrictions are becoming increasingly eroded. Product deregulation has taken place as well, but primarily for thrift institutions and other nonbank providers. Thus banks are facing increasingly stiff competition for their services.

Banks are unique because of the important part they play in our payment system and because they are agents for monetary control. But banks have lost uniqueness in terms of the services they can provide to the public.

While banks wait for Congress to provide them with additional powers, others in the marketplace continue to gain new competitive advantages. Sears is expanding its financial centers. Merrill Lynch is targeting small businesses for cash management accounts and

credit. Retailers are selling mortgages. Grocery stores and gas stations are installing ATMs and charging the bank when a customer uses them. Everyone is selling cash management accounts with lower and lower minimums. In fact, there is no longer a single product or service which is unique to banks—the market has developed many substitutes.

These financial services firms are offering products that previously only banks could offer. They are getting into the banking business, while trying to prevent the banks from getting into their business.

Banks also face a new economic environment. Portfolio management has been complicated by unprecedented interest rate volatility, and more recently, by the deceleration of record-level inflation rates. The real economy has experienced prolonged downturns, causing overall credit quality to decline.

Technological advances are also reshaping the financial services marketplace. Services were once delivered through brick-and-mortar branches by live tellers. Increasingly, they are being offered by ATMs or even at the point of sale. Product design is also being transformed by the computer. Asset management accounts, consolidated loan/deposit statements, and even money market mutual funds would not have been as cost-effective a decade ago.

Deregulation, economic volatility, and advancing technology—these phenomena are reshaping the marketplace. Just consider the number of new financial products and services offered today that were virtually unknown to the banking industry just 20 years ago: money market deposit accounts, super NOW accounts, adjustable-rate mortgages, mortgage-backed bonds and mortgage pass-throughs, leveraged buyouts, zero coupon bonds, interest rate swaps, the T-bill and GNMA futures markets, personal home equity lines of credit, repos and reverse repos—all of these products have added to the complexity of banking.

Regulatory Response to This Changing Environment

As regulators, we are constantly searching for ways to improve the safety and soundness of the banking system in this changing environment. In particular, we are looking for ways to discourage excessive unconstrained risk taking. We recognize the inherent limitations of bank supervision—2,000 plus national bank examiners can do only so much. The quality of the supervisory staff, with experience and a full knowledge of the bank's business, is critical. We are placing

increasing emphasis on market discipline to help regulate bank behavior.

While bank management is armed with new technological and legal capabilities, these will be coupled with increased management accountability. Little sympathy will be extended to a bank's board of directors that pleads ignorance and a general lack of awareness of its bank's activities.

When increased risks are taken, safeguards against those risks must be imposed. We are moving forward on several fronts to accomplish this objective. More emphasis is being placed on the adequacy of capital and the effectiveness of a bank's own system of internal controls. Management will also be held accountable to the marketplace through increased disclosure. In short, institutions are gaining more autonomy in decisionmaking, but such flexibility requires increased responsibility for the consequences of those decisions.

I will now briefly review in more detail actions we are taking or contemplating taking to strengthen the banking system. First, let's look at capital requirements. The increased level of risk in the banking system clearly requires a higher level of capital. We view a strong capital base as important in helping to strengthen the system. Our new regulation on minimum capital ratios became effective today. The rule requires national banks to have a ratio of primary capital to assets of at least 5.5 percent. Because not all banks will be able to achieve these ratios quickly, the rule provides that a bank is in compliance if it has an acceptable plan that details how it will achieve compliance within a reasonable period of time.

These ratios apply to well-managed banks with no material weaknesses. Different ratios will be established where circumstances warrant them. For instance, higher capital ratios may be imposed on banks that have low liquidity, significant off-balance sheet activity, risky asset portfolios or are affiliated with institutions that increase risk to the bank.

I would emphasize here that the International Lending Act of 1983 for the first time gave the federal regulators the power to proscribe capital ratios and also the power to enforce those ratios!

We are not satisfied, however, with just a simplistic capital ratio as just adopted. At the OCC, we are studying a risk asset approach to capital adequacy which would encompass the total risk in a bank including off-balance sheet activity. We have seen banks that are sacrificing liquidity to meet or maintain the capital required by our regulations. They sell

assets such as Treasury securities that provide relatively low rates of return and invest the proceeds in riskier and less liquid commercial loans and other assets.

We are concerned with the low levels of liquidity in the system, particularly at the large banks dependent upon purchased funds. In response, we are exploring approaches that impose lower capital requirements against high quality liquid assets such as Treasury securities. A billion dollar bank with a large portfolio of Treasury securities might have a lower capital requirement than a comparably sized bank with fewer liquid assets. Similarly, banks with significant off-balance sheet activities such as standby letters of credit would warrant higher capital requirements in recognition of the higher level of risk.

Increased Market Discipline

There are a number of alternatives under review that would increase market discipline in the banking system. One important area receiving increased attention is disclosure. Requiring bank management to explain to the public their own operations, loan concentrations, and strategies, their problems as well as their successes, and their financial performance should make bank management more cautious in the future. At the same time, improved public disclosure should enhance the credibility of bank financial statements and reduce the likelihood that the market will overreact to incomplete information.

We sought public comment last year on the subject of disclosure through an advance notice of proposed rulemaking. The questions that were considered included: what additional information is needed; who should have the responsibility of making information available to the public; and how the integrity of financial statements would be maintained. The response was disappointing; only 130 comments were received on an issue that has great significance to some 4,900 national banks. The reaction was predictable: the banking respondents were against the proposal and public respondents were for the proposal.

We hope this spring to be able to request public comments on a proposal that would require all national banks to provide periodic disclosure reports to our office. They would also have to notify depositors and security holders that these reports are available and provide free copies upon request. We are considering exactly what these reports should contain, such as narrative information about the bank, its management, results of operations, financial condition, and the existence of any outstanding supervisory action. They might also contain financial statements

covering multiple reporting periods to make it easier for the general public to compare changes in financial positions.

Other methods to increase market awareness and discipline include revising the deposit insurance system to provide for risk-related premiums and by creating a class of truly uninsured and, therefore, risk-sensitive, creditors. These uninsured creditors might take the form of subordinated debt holders. Under a proposal of Chairman Isaac of the FDIC, all banks would be required to meet a 9 percent capital requirement, a third of which could be in the form of subordinated debt. I think this proposal is premature in light of a just recently published regulation establishing new capital guidelines and the fact that some \$60 billion would be required to be raised by the banking industry, a not insignificant amount in light of the dramatic stresses upon the industry at this time. Alternative strategies to protect the insurance funds may be developed in the future that increase the possibility of loss for holders of deposits in excess of \$100,000 in failed banks. The FDIC last year experimented with a modified payout program that resulted in uninsured creditors sharing in the losses resulting from bank failures.

Ultimate Responsibility Rests With the Bank

The ultimate responsibility, obviously, for the health and continued viability of individual banks rests with management. And a large part of this responsibility resides with you. Time and again in recent years, we have discovered major, and at times fatal flaws in individual banks' internal control and management information systems. Recent catastrophes in the banking industry have resulted from management inattention, not necessarily calculated risk-taking. Banking is a very visible industry, one in which almost every citizen of this country has a stake. The public looks to you, as competent professionals, to do your part to promote the safety and soundness of the banking system. Therefore, allow me to touch on several specific areas for which your management, shareholders and depositors, the general public, and the regulators will hold you responsible.

In today's environment, it is absolutely essential that effective internal controls be in place. This was highlighted dramatically in the collapse of Continental Illinois. For anyone believing that this was an isolated instance, please refer to the recent newspaper reports on the bankruptcy of ESM and Bevil Bresler & Schuman and the publicized and increasing violations of the Bank Secrecy Act to see the effects of those errors.

the decisions of financial institutions across the nation. One could hardly disclaim the fact that sound internal controls and audit procedures would have done much to prevent the resulting exposures. You are experts in the area of internal controls. I recognize that it may be less time consuming to review transactions than to perform detailed testing of internal controls. Nevertheless, the public and the regulators are relying on you to determine that adequate and functional internal controls are in place in your institutions.

Helping banks to deal with the mechanics of change is another valuable service you can provide to the industry. As banks engage in new activities and offer new products as a result of deregulation, they will need specialized assistance in dealing with complex accounting issues, systems development and modification, and operational changes. You have experience in many of these areas.

We are seeing an increasing number of "creative" transactions driven by the need for capital. Banks are entering into transactions that reduce assets or create gains, yet have no economic substance. We seek your help to get beyond the form of these transactions, and determine that they are properly accounted for on the basis of substance. You can ensure that the nature of the transactions, their risk, and contingent liabilities associated with them have been adequately disclosed in the financial statements.

The OCC encourages your profession to be aggressive

and united on issues such as capitalization and accrual of interest, the sale of assets, and others. We encourage you to address emerging issues early, communicate your conclusions clearly and explicitly, and apply practices and standards consistently across the profession. If you endorse reasonable industry practices and GAAP standards, regulators are likely to accept such positions. This will avoid placing banks in the difficult position of having to comply with two sets of standards—one set for GAAP and another for regulatory purposes.

Conclusion

In conclusion, the banking industry is becoming increasingly more complex. The importance of audits has never been greater. With market discipline and disclosure requirements increasing, the depositors, shareholders, and the general public, as well as the regulators, will rely more and more on the products you generate. It is no easy job to be an auditor—internal or external—or a regulator. The pressures are the same.

Yet, the future promises to be exciting and challenging both for you and for the banks you audit. While it's a time rich with challenge and rewards, it is also a time in which great criticism could be leveled against both of our professions. I know you recognize the gravity of the challenge and will take your responsibilities seriously so we can maintain a sound and productive financial system.

Statement of Michael Patriarca, Deputy Comptroller for Multinational Banking, before the House Subcommittee on General Oversight and Investigations of the Committee on Banking, Finance, and Urban Affairs, April 16, 1985

I am pleased to provide the views of the Office of the Comptroller of the Currency (OCC) on the appropriate safeguards for financial institutions investing in mortgage-backed securities. The OCC shares the Subcommittee's concerns about the potential for problems in the market for mortgage-backed securities. Although we do not believe that the integrity or soundness of the banking system is threatened by the emergence of problems in this market, a thoughtful study of mortgage-backed securities may serve to prevent problems and improve the future.

The Secondary Market and Its Benefits

The secondary mortgage market has revolutionized mortgage lending. By separating the mortgage market

into the traditional capital market, the secondary mortgage market has broadened the financial base for home mortgages.

Depository institutions long have been the principal source of financing for the residential housing market. As a result, mortgage borrowers have traditionally been dependent on the availability of funds from local lending institutions. Funds availability, however, varies geographically. The more developed areas of the country, such as the Northeast, have generally experienced weak mortgage demand and savings surpluses. Rapidly developing areas of the country have suffered from savings shortages and thus inadequate funds for mortgage lending. The secondary

mortgage market arose in response to this imbalance. It facilitates the flow of mortgages and mortgage funds between capital-short and capital-flush areas and sectors of the country.

Through the secondary mortgage market, mortgage originators and investors can participate fully in the mortgage marketplace. Small- to middle-sized banks and thrifts, whose mortgage market participation has historically been limited to their deposit base, can now make home mortgage loans for sale in the secondary market. Such sales enable institutions to "recapture" funds for additional lending in local markets. As a result, mortgage borrowers nationwide benefit from a greater availability and lower cost of mortgage funds.

Larger, deposit-flush institutions with excess funds to invest benefit themselves and the mortgage market by purchasing whole mortgage loans or investing in securities backed by pools of mortgage loans sold by institutions in need of funds. Purchase of mortgage loans or securities backed by mortgage pools enable institutions to diversify their portfolios with safe and liquid investments in mortgage instruments.

Furthermore, the availability of mortgage purchases and participations attracts a variety of new types of investors into the mortgage market, thereby further stabilizing the flow of funds to housing.

Although the operation of the secondary mortgage market has provided tangible benefits to originating and investing financial institutions, the major benefits have accrued to the home buying public. The development of this market has promoted a continued supply of long-term credit at affordable rates.

By virtue of its benefits to investors, mortgage originators, home buyers and their communities, the secondary mortgage market has grown significantly in recent years. According to the Mortgage Bankers Association, 60 percent of 1982's originations were sold in the secondary market, compared to some 30 percent throughout most of the 1970s. By 1990, industry analysts estimate as much as three-fourths of all new home mortgages will be sold in the secondary market.

The significant growth in this market is likely to be even further bolstered by the enactment last October of the Secondary Mortgage Market Enhancement Act. Designed to encourage growth in mortgage-backed securities issued by the private sector, the Act permits banks and thrifts to purchase unlimited amounts of mortgage-related securities.

The Risks

Notwithstanding the overwhelming benefits associated with the mortgage-backed securities market, there are risks associated with it as well. Mortgage-backed securities are, after all, securities and share many of the same risks for investors as other types of securities, in addition to some unique risks. In order to make a prudent investment decision, investors must be able to address the financial worth of the issuers and assets backing the securities. In the case of mortgage-backed securities, at a minimum, an investor should know something about the properties serving as security for the mortgage, whether the appraisals on the properties and the collateral documentation are fair and accurate and whether these loans are originated and serviced by competent professionals. The investor must also know about the character and financial standing of the issuer of the securities, and the financial and legal position of any private company insuring the mortgages or acting as trustee.

For some mortgage-backed securities, this information is readily available and reliable. If the securities are registered under the Securities Act of 1933, the issuer is required to provide audited financial and other information sufficient for investors to make fully informed and prudent investment decisions. Due to a variety of statutory provisions, however, many mortgage-backed securities are exempt from the registration requirements of the Securities Act.

This exemption does not mean, however, that investors in these instruments must always fend for themselves in ferreting out the necessary information. Most publicly offered mortgage-backed securities are subjected by their issuers to an independent assessment by a nationally recognized rating agency. These services provide professional assessment of the securities after examining all of the relevant background information. We feel that mortgage-backed securities that are rated in one of the top two categories by a nationally recognized rating service are generally prudent investments for insured financial institutions.

However, in the absence of the registration requirements or the rating service process, we think it unlikely that many financial institutions will normally have the information necessary to make a prudent investment decision. Private placements of mortgage-backed securities are typically exempt from the registration requirements of the Securities Act and do not normally have the benefit of a rating service analysis. Consequently, investors are left to their own devices of amassing information and making judgments concerning properties, appraisers, issuers, insurers, trustees and others that may be located diversely and

generally from the same type of sophisticated investors, particularly small depository institutions. In these circumstances and risk often prone to rely upon the recommendations of advisers alone. Such dangers, coupled with the inherently limited liquidity of these privately placed securities, raise serious questions about whether such unregistered and unrated securities are appropriate investments for federally insured financial institutions.

Mitigating the Risks

At the Comptroller's Office, we are considering, among other things, the use of our rulemaking power

to curtail investment by national banks in unregistered unrated mortgage-backed securities. While such investments may be appropriate for some investors, we doubt that they meet the standard of prudence expected of those institutions holding federal deposit insurance. Moreover, we do not feel that any such restriction on national banks will inhibit the continued healthy growth and development of the secondary mortgage market. In fact, by discouraging the inherently more risky securities in the market, the strength of investing institutions and of the market itself is likely to be enhanced.

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Powers Inconsistent With the Purposes of Federal Deposit Insurance Law

February 11, 1985

Hoyle L. Robinson
Executive Secretary
Federal Deposit Insurance Corporation
550th 17th Street, N.W.
Washington, D.C. 20429

Dear Mr. Robinson:

This is in response to the notice of proposed rulemaking (49 *Federal Register* 48552) dated December 13, 1984, entitled "Powers Inconsistent With the Purposes of Federal Deposit Insurance Law." The proposal modifies the advance notice of proposed rulemaking published on September 12, 1983 (48 *Federal Register* 40900). The Office of the Comptroller of the Currency wishes to avail itself of the opportunity to comment upon this proposal to amend Part 332, 12 C.F.R. § 332.

The decision by the Federal Deposit Insurance Corporation (Corporation) to amend Part 332 appears chiefly to be based on two concerns. One is the expanding list of activities being authorized for banks by state legislatures. The other is the resulting risk to the safety and soundness of banks and the deposit insurance system. In order to control the risk, the proposal prohibits any insured bank, including national banks supervised by the OCC, from engaging directly in certain activities. These activities could, however, be conducted in "bona fide" subsidiaries or in affiliates possessing the characteristics of "bona fide" subsidiaries. In addition, while other less risky activities could be conducted in-house, in a subsidiary, or in an affiliate, certain restrictions would apply.

The Corporation has included all insured banks within the scope of the proposed regulation unless a particular activity is authorized by law to be conducted by national banks either in the bank or in an operating subsidiary. There is no evidence that Congress has given the Corporation the authority to promulgate a regulation which has the effect of supplanting the OCC as primary regulator of national banks. Thus, it seems clear that the Corporation has exceeded its authority by purporting to prohibit national banks from conducting certain activities.

The Office believes it is the responsibility of the primary regulator, whether state or federal, to evaluate carefully the risk related to permissible activities and determine whether to impose restrictions to minimize such risk. The primary regulators have performed this

regulatory and supervisory function for traditional banking activities, such as lending and are continuing to examine newly authorized activities and to impose limitations where deemed necessary. For example, this Office has by letter advised national banks that safety and soundness considerations require the banks to take certain precautions when leasing excess office space in bank-owned buildings to insurance agents. In addition, the Office has published a notice of proposed rulemaking that sets forth the circumstances in which brokerage activities of national banks should be conducted in operating subsidiaries of such banks in order that the Office can more efficiently examine and supervise the impact of the activity on the bank. Thus, it is not the basic purpose of the regulatory proposal to which the Office chiefly objects, but rather its scope.

Applicability to National Banks

Since national banks are insured banks, the proposal purports to apply to national banks. The Office strongly objects to this attempt by the Corporation to extend its regulatory authority to national banks and their subsidiaries and affiliates. Although the Corporation has general rulemaking authority to carry out the provisions of the Federal Deposit Insurance Act, see 12 U.S.C. § 1819 (Tenth), the authority to issue rules and regulations which relate to the safety and soundness of national banks and their subsidiaries has been given by Congress to the Comptroller. A broad reading of the rulemaking authority of the Corporation to include regulation of national bank activities is contrary to the overall scheme of designating primary regulators for financial institutions. Further, it would be a drastic departure from historic agency practice. Finally, it would create so much confusion through regulatory overlap and so many operational problems for banks that we consider the concept to be unworkable.

Numerous statutory provisions, the legislative history, and judicial opinions support the conclusion that Congress has vested the Comptroller, as primary regulator, and not the FDIC, with the authority to promulgate rules and regulations related to the safety and soundness of national banks. See, e.g., 12 U.S.C. § 481 (examination authority), 12 U.S.C. § 93a (authority to prescribe rules and regulations), S. Rep. No. 368, 96th Cong., 2d Sess. 13, *reprinted in* 1980 U.S. Code Cong. & Ad. News 236-249 (authority to prohibit unsafe and unsound banking practices), H. Conf. Rep. No. 842, 96th Cong., 2d Sess. 83, *reprinted in* 1980 U.S. Code Cong. & Ad. News 236-313. In addition to such authority granted to the Comptroller in the National Bank Act, the Federal Deposit Insurance Act (FDIA) itself recognizes the Comptroller's primary

will extend to national banks. This is accomplished through use of the term "appropriate Federal banking agency," which is defined in section 3(q), 12 U.S.C. § 1813(q), as the Comptroller in the case of national banks (among others); the Board of Governors in the case of state member banks (among others); and the FDIC in the case of state nonmember banks. This phrase is used not only in the FDIA's substantive grants of authority (e.g., § 8(b)) but also in other statutes. See, e.g., the International Lending Supervision Act, 12 U.S.C. §§ 3902 and 3907.

Other provisions of the FDIA reflect the same Congressional intent. Section 1814 empowers the Comptroller to issue a certificate to the FDIC stating that a particular national bank is authorized to transact banking business and that the Comptroller has considered the factors enumerated in section 1816. As you know, the factors included in section 1816 relate to the safety and soundness of the bank itself and its potential impact on the insurance fund. Issuance of the certificate by the Comptroller automatically entitles the bank, except in the case of certain trust companies, to insurance fund coverage.

Under section 1818 of the FDIA, the Comptroller also has exclusive power to bring an enforcement action against a national bank. Such enforcement powers authorize the Comptroller to define and proscribe unsafe and unsound banking practices. See, e.g., *IBAA v. Heimann*, 613 F.2d 1164 (D.C. Cir. 1979) and *First National Bank of LaMarque v. Smith*, 610 F.2d 1258 (5th Cir. 1978). Although the Corporation may terminate the status of a national bank as an insured bank pursuant to section 1818, the procedure includes notification to and intervention by the Comptroller to correct the practice or violation. Additionally, the examination authority of the Corporation under section 1820 for national banks is by statute reserved for special cases. Thus, it appears that although the Corporation has responsibility for protecting the insurance fund, the statutory framework contemplates a regulatory scheme in which primary responsibility for the safety and soundness of a financial institution rests with its primary regulator. This conclusion is reached by the court in *Groos National Bank v. Comptroller of the Currency*, 573 F.2d 889 (5th Cir. 1978) in which the court, in commenting on the term "unsafe and unsound banking practice," states that "one of the purposes of the banking acts is clearly to commit the progressive definition and eradication of such practices to the expertise of the appropriate regulatory agencies." *Id.* at 897. In *Groos*, the court determines that, in the case of a national bank, the Comptroller has the authority to issue regulations related to safe and sound banking practices. *Id.* See also *First National*

Bank of Lamarque v. Smith, 610 F.2d 1258, 1263-65 (5th Cir. 1980).

A similar framework for the regulation, supervision and examination of foreign banking activities in the United States was established by the International Banking Act of 1978 ("IBA"). The IBA provides that primary authority for regulation, supervision, and examination of such activities rests with the Comptroller, the FDIC, and the states for operations within their jurisdiction. Residual examination authority is given to the Federal Reserve Board (Fed). The legislative history of the IBA indicates that such authority is not intended to supersede the authority given to another Federal agency, but that where overlap occurs extensive consultation and cooperation should occur. See S. Rep. No. 1073, 95th Cong., 2d Sess. 13 (1978). It appears that where Congress has anticipated regulatory overlap, it has attempted to clarify the role of each agency as far as possible.

Generally, the legislative history of the FDIA and acts amending the statute contains little discussion of possible overlap between the authority of the FDIC and other Federal bank regulatory agencies. Primary attention is given to preserving the integrity of the dual banking system. Such lack of discussion of overlapping jurisdiction indicates that Congress did not contemplate that the FDIC would attempt to regulate in such a way as to conflict with the authority of the primary regulators.

Furthermore, it has been the practice of the Corporation in the past to limit its regulation of banking activities to insured state nonmember banks. In fact, Part 332 currently applies only to such banks. Additionally, Part 337, entitled "Unsafe and Unsound Banking Practices," as recently amended to cover securities activities, applies only to insured nonmember banks. In some areas where the Federal bank regulatory agencies have common interests, such as in the area of capital adequacy, the agencies have cooperated in formulating nearly uniform regulatory provisions for their respective banks. Such a practice is more consistent with the regulatory scheme.

From a practical standpoint, attempts by the Corporation to regulate national bank activities would undercut a major role of the Comptroller and, as a result of overlapping statutory and regulatory provisions, confuse the banking industry. Without a clear determination by Congress, it does not make sense, nor is there legal authority, to change the current regulatory scheme.

Activities Affected

The proposed regulation contains certain exemptions that would ease the impact on national banks. First, it

does not require a national bank to establish or acquire a "bona fide" subsidiary in order to conduct one of the "more risky" activities described in the regulation if a national bank is authorized by statute, regulation, or interpretation to conduct the activity in-house or in an operating subsidiary. See § 332.3(b)(2). Also, a subsidiary that exclusively conducts one of the "more risky" activities that are authorized for national banks is not subject to the regulation's notice requirement or investment and loan restrictions. See § 332.9.

The proposal does purport to apply to national bank activities, however, in a number of other situations. It applies to any national bank and its subsidiaries and affiliates that conduct one or more of the "less risky" activities. Also, the regulation purports to regulate all national bank affiliates engaging in any covered activity—both the "more" and the "less risky" ones. Finally, it would apply to a national bank subsidiary which conducts more than one of the "more risky" activities and to a national bank and its subsidiaries which conduct a "more risky" activity not specifically authorized by law for national banks.

Currently, national banks and their subsidiaries are not permitted to engage in many of the covered activities, particularly the "more risky" activities. However, depending on how the Corporation ultimately defines real estate underwriting and equity participation, national banks may be considered to be engaged already in these activities. In addition, national banks are authorized to conduct certain surety-related activities that appear to be covered. Of the "less risky" activities, national banks and their subsidiaries may offer EDP services to persons or companies other than banks, act as broker in the sale of securities, act as agent or broker in the sale of DPC real estate and bank premises, and act as agent in the sale of credit life insurance and general insurance products under 12 U.S.C. § 92. Although national banks are not extensively engaged in the above activities at this time, the number is growing. Thus, the impact of the regulation on national banks and their subsidiaries will increase.

National banks are affected by the proposal to a greater extent through affiliate relationships within a holding company system. From our reading of the definitions of "affiliate" and "control" in the proposal, it appears that only entities within such a system could be affiliates of national banks for purposes of the regulation. Consequently, national banks within a holding company structure could be affected by the proposal as a result of any of the following entities also being members of the system: the parent holding company, its nonbank subsidiaries, its member and

nonmember bank subsidiaries and nonbank subsidiaries of such banks.

Certain restricted activities, such as more permissive insurance-related activities and EDP services, are not authorized for national banks but are permissible for bank holding companies and their nonbank subsidiaries by virtue of the Bank Holding Company Act of 1956, as amended, and Regulation Y, 12 C.F.R. § 225. In addition, many of the covered activities, including more extensive insurance and securities underwriting, real estate development, and travel agency services, are permissible under state law for state-chartered banks and their subsidiaries, but are not authorized for national banks. Consequently, certain activities not permissible for a national bank may be engaged in by its affiliates under the BHCA, Reg. Y, or state law, thus indirectly subjecting the bank to the proposed regulation by virtue of the more expansive authority of these affiliates.

Also, the potential impact of the proposal on a one-bank (national bank) holding company system could be extremely severe. For example, if the Corporation desired to enforce the regulation against a noncomplying, uninsured affiliate of a national bank, would it institute insurance termination proceedings against the bank? If such were the case, such action would certainly be excessive, particularly where the activities of the affiliate had a minimal effect on the financial condition of the national bank.

In summary, many of the covered activities are permissible either for bank holding companies and their subsidiaries or for state banks and their subsidiaries owned by such holding companies. Thus, whenever a national bank is affiliated with such an entity through a holding company structure, the regulation will affect the national bank's relationship with that affiliate.

Additional Comments

A further problematic area of the proposal that is of concern to the Office, in that it relates to its potential effect on national banks, is the lack of clear definition of terms. Two examples of this are: what does "specifically authorized by statute, regulation, or interpretation" for national banks mean? and what is considered real estate underwriting? The full impact of the regulation on national banks cannot be assessed unless such provisions are clearly defined.

The Office also is concerned that overly restrictive regulation may unduly disadvantage the competitive position of banks and stifle innovation. In this connection, it is noted that some banks that commented on the Corporation's advance notice of proposed

insurance, and have been conducting for several years covered activities such as insurance activities and travel agency services. stated that the activities did not pose significant safety and soundness problems.

Finally, certain regulatory provisions appear to overlap or contradict existing statutes and regulations in the areas of antitrust, capital, and affiliation that are the primary responsibility of other Federal agencies. In areas where current law addresses issues raised by the Corporation, the Corporation should not attempt to change or duplicate that law by contradictory or redundant regulation which will have the effect of undermining the regulatory process and confusing the regulated entities.

Conclusion

The Office most strenuously objects to the Corporation's attempt to regulate the activities of national banks and their subsidiaries and affiliates. Consequently, the Office requests that the Corporation restructure the regulation to remove national banks from its purported scope. Further, with regard to the proposal as it affects state banks, it is the opinion of the Office that certain provisions of the proposed regulation should be clarified and other provisions which contradict or overlap existing law should be removed.

C. T. Conover
Comptroller of the Currency

Decision of the Comptroller of the Currency on the Application of Mark Twain Bank, National Association, Independence, Missouri, to Relocate Its Main Office to Overland Park, Kansas

February 21, 1985

I. Background

Mark Twain Bank, National Association (Mark Twain or Bank), of Independence, Missouri, has filed an application to relocate its sole banking office approximately 16 1/2 miles to Overland Park, Kansas. Mark Twain is a subsidiary of Mark Twain Bancshares, Inc. (Bancshares), a Missouri multibank holding company headquartered in St. Louis.

The Bank has articulated a number of reasons for its proposed relocation. Materials submitted by Mark Twain indicate that the Bank believes that its current location, Independence, Missouri, is a mature and stagnant community with the rate of the proposed relocation could attract dramatic growth. The Bank

believes that a relocation to Overland Park will present the opportunity for comparable growth.

The Bank's application also states that a purpose behind the relocation is to better serve the convenience and needs of the metropolitan Kansas City area, which is made up of communities on both sides of the Missouri-Kansas border. The application stresses that the Kansas City metropolitan area is one homogeneous area as evidenced by, among other things, advertising patterns, the local telephone book, real estate listings and Kansas City Chamber of Commerce publications. Mark Twain's application argues that the application is consistent with the Community Reinvestment Act, 12 U.S.C. §§ 2901 *et seq.*, which directs the OCC to encourage national banks to help meet the credit needs of their local communities. The Bank, recognizing that its community, for Community Reinvestment Act purposes, includes locations on the Kansas side of the border, believes that the relocation will enable it to better serve those locations while still serving Missouri customers. Thus, Mark Twain argues that the purposes of the Act will be facilitated by the relocation.¹

Finally, the application indicates that the relocation will result in more efficient use of advertising dollars since local newspapers, radio, and television all serve the entire metropolitan area. The Bank believes that its new location in Kansas, combined with the customer goodwill it has built up in its former location, will allow it to attract customers from both sides of the border and thus get full value for its advertising dollars.

The Bank's application notes that when the main office relocation is completed, Mark Twain will no longer operate out of its former office. All accounts will remain on the books of the relocated bank. However, an affiliated state bank, Mark Twain Kansas City Bank, presently has a convenience facility on the Bank's premises in Independence and may expand its operations on those premises when the Bank relocates. Therefore, the Bank argues that Independence, Missouri, will not be abandoned if the application is approved.

¹Mark Twain's application could be read to suggest that the Community Reinvestment Act itself provides authority for this interstate relocation. That Act does require federal regulatory agencies to encourage financial institutions to help meet the credit needs of their local communities. Agencies are directed to consider a financial institution's performance in meeting the credit needs of its community when evaluating certain corporate applications (e.g., branching, relocations, mergers). 12 U.S.C. § 2903(2). An institution's community for Community Reinvestment Act purposes may cross state lines. See generally 12 C.F.R. § 25.3. However, there is no support for the argument that the Act itself authorizes bank relocation or overrides restrictions on interstate transactions that would otherwise be applicable.

II. OCC Policy on Main Office Relocations

The OCC's regulation concerning main office relocations provides that it is the general policy of this Office to approve such relocations, if consistent with applicable law. 12 C.F.R. § 5.40(b). However, the regulation states that the Office reserves the right to deny or conditionally approve relocation applications if:

- (1) There are significant supervisory concerns with respect to the applicant or an affiliated organization as defined by 12 U.S.C. 221a; or
- (2) The applicant's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank, is less than satisfactory; or,
- (3) Any financial or other business arrangement . . . involving the head office . . . and bank insiders . . . involves terms and conditions more favorable to the insiders than would be available in a comparable transaction with unrelated parties. (12 C.F.R. § 5.40(b).)

After reviewing these factors in connection with the Bank, I find no reason to deny or conditionally approve this application. Therefore, the relocation will be approved if consistent with applicable law.²

III. Authority for Main Office Relocations by National Banks

The authority for a national bank to relocate its main office is provided in 12 U.S.C. § 30(b):

Any national banking association, upon written notice to the Comptroller of the Currency, may change the location of its main office to any authorized branch location within the limits of the city, town, or village in which it is situated, or, with a vote of shareholders owning two-thirds of the stock of such association for relocation outside such limits and upon receipt of a certificate of approval from the Comptroller of the Currency, to any other location within or outside the limits of the city, town, or village in which it is located, but not more than thirty miles beyond such limits.

The plain language of the statute permits a national

²Several commenters protested the application on the grounds of the increased competition that would result in Overland Park if the application is approved. However, the Office does not have a policy of protecting existing competitors from the competition that a new bank will provide. See 12 C.F.R. § 5.20(c) (concerning issuance of new charters). Thus, these protests are no reason to deny the application.

bank, upon receiving shareholder and OCC approval to relocate its main office "to any other location within 30 miles from the limits of the city, town, or village in which it is located. Since the Bank's relocation will be about 16 1/2 miles, section 30 authorizes Mark Twain's relocation provided that shareholder and OCC approval are obtained.

Notably, this relocation would cross the Missouri-Kansas border. When section 30 was first adopted in 1886, it authorized national banks to relocate their main offices "to any other place within the same State not more than 30 miles distant." See Act of May 1, 1886, c. 73, § 2, 24 Stat. 18 (emphasis added). The statute contained the intrastate restriction until 1959, when it was deleted by Congress as part of an amendment to section 30. See Act of September 8, 1959, Pub. L. No. 86-230, § 3, 73 Stat. 457. The legislative history of the 1959 amendment to section 30 contains no discussion concerning the deletion of the intrastate restriction. The language of section 30 remained unchanged until 1982 and 1983 when Congress amended the statute in aspects not pertinent here. See Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, § 405, 96 Stat. 1512 (October 15, 1982); Act of January 12, 1983, Pub. L. No. 97-457, § 19(a), 96 Stat. 2509.

The Kansas Bankers Association (KBA), which filed comments with the OCC in opposition to the Bank's application³, argued that the 1959 amendment to section 30 was part of a technical housekeeping bill and that the main purpose of the amendment was to require the Comptroller's approval for main office relocations within the same town. See S. Rep. No. 730, 86th Cong., 1st Sess., *reprinted in* 1959 U.S. Code Cong. & Ad. News 2232, 2234; Hearings Before the House Comm. on Banking and Currency, 85th Cong., 1st Sess. 160 (1957) (statement of Comptroller Gidney). See *generally* Comments of the Kansas Bankers Association in Opposition to the Application of Mark Twain Bank, N.A., p. 4 (June 22, 1984) (hereinafter cited as KBA Comments). The KBA, arguing that the bill was technical and noncontroversial and that it resulted in more rather than less regulation of relocations, asserted that the intrastate language in section 30 must have been deleted by mistake or omitted as surplusage in light of other restrictions on interstate banking such as the McFadden Act, 12 U.S.C. § 36, and the Douglas Amendment to the Bank Holding Company Act (BHCA), 12 U.S.C. § 1842(d). KBA Comments at p. 5. The KBA asserted that any intended substantive change to permit interstate re

³Kansas Bank Commissioner Eugene C. Hegarty filed a separate comment letter opposing approval of the application and mentioning in the KBA's arguments.

repeal would have been addressed in the legislative history. In view of these other restrictions on interstate banking, thus, the KBA concluded that the intrastate restriction should still be considered part of section 30 and that the statute provides no authority for interstate relocations. *Id.* at p. 6.

This my decision, however, that 12 U.S.C. § 30 does authorize an interstate relocation. It is a fundamental canon of statutory construction that where no ambiguity exists, the clear meaning of a statute must be applied. *See Caminetti v. United States*, 242 U.S. 470, 485 (1917); 2A *Sutherland Statutes and Statutory Construction* § 46.01 (C. Sands 4th ed. 1984) (hereinafter cited as *Statutory Construction*). The plain and unambiguous language of section 30 gives national banks the authority to relocate "to any other location" within 30 miles of the limits of the city, town, or village within which it is currently located. In light of the rule of statutory construction discussed above, the clear language of section 30 should be interpreted to mean what it states and Mark Twain therefore has legal authority to relocate to any location within 30 miles of Independence, Missouri, its current location.

Indeed, it cannot be doubted that Congress repealed the intrastate restriction in 1959. Another canon of statutory construction provides that an amendatory act which purports to set out an original act or section as amended repeals all matter in the original act or section that is omitted in the amendment. *See, e.g., U.S. v. Baker*, 189 F. Supp. 796, 802-03 (W.D. Pa. 1960), *aff'd* 293 F.2d 613 (10th Cir.), *cert. denied* 368 U.S. 914 (1961); *United States v. One Ice Box*, 37 F.2d 120, 123 (N.D. Ill. 1930); 1A *Statutory Construction* at § 22.32 (1972). Congress expressly declared that the 1959 amendment changed the language of the original section 30 "to read as follows," and then set out the language of the amended section 30 without the intrastate restriction. *See* Pub. L. No. 86-230, *supra*. Thus, it is clear that the amended language was meant to replace the previous language in its entirety. *See generally* 1A *Statutory Construction* at § 22.32. Pursuant to the principle of statutory construction discussed above, the intrastate restriction was repealed by the 1959 amendment. The 1982 amendments also set out section 30 as amended but did not reinsert the intrastate language.⁴ Therefore, the most logical reading of

the current statute is that section 30 means what it states, that a national bank may relocate "to any location" within 30 miles of the city, town, or village within which it is located and that there are no implicit intrastate restrictions.

The KBA's comments, in effect, ask the OCC to read an intrastate restriction into 12 U.S.C. § 30 despite the fact that no such limitation exists. This argument is based on the assertion that Congress' deletion of the intrastate restriction in 1959 must have been unintended in light of the lack of legislative history discussing the change. However, it cannot be doubted that Congress affirmatively acted to delete the intrastate restriction in 1959. Moreover, despite the clarity of the statutory language, the intrastate restriction has not been reinserted since that time. I therefore do not believe it appropriate to construe section 30 so as to prohibit that which it plainly allows.

The view that 12 U.S.C. § 30 should not be interpreted to contain an implicit intrastate restriction is also supported by the OCC's contemporaneous construction of the 1959 amendment to the statute. In 1960, several months after the passage of the 1959 amendment, the Comptroller's Office determined that section 30 permitted a national bank to relocate its main office up to 30 miles without regard to state boundaries. Thus, in June of 1960, the Office approved the application of the First National Bank of Anthony, Anthony, Texas, to relocate to Anthony, New Mexico.⁵ The approval of this relocation emphasizes the fact that no intrastate restriction remained in 12 U.S.C. § 30 after 1959.⁶

The KBA's comments suggest, however, that Mark

there is written into the language of the report that there is nothing in this legislation that would mean to misinterpret the present rules and regulations of the Glass-Steagall Act or the McDouglas [sic] Act. The McDouglas [sic] Act would control across interstate merger lines, so my answer to that question is there is nothing. (128 Cong. Rec. H8437 (daily ed. October 1, 1982).)

The KBA argues that these exchanges indicate that section 30, which, as noted previously, was amended as part of the 1982 Act, was not intended to authorize interstate main office relocations. KBA Comments at p. 5. However, since the 1982 amendments to section 30 had no reference to the area within which a national bank may relocate its main office, these general comments have little probative value in determining whether the 1959 amendments to section 30 authorized interstate relocations.

⁵ The First National Bank of Anthony later consolidated with the First National Bank of Dona Ana County, Las Cruces, New Mexico.

⁶ I recognize that a 1967 OCC staff opinion letter expressed the view that 12 U.S.C. § 30 implicitly restricts main office relocations to the same state. *See* letter of August 14, 1967, summarized in [1966-73 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 94,805. This letter, however, was conclusory and contained no legal analysis. Moreover, it is contrary to the plain language of section 30 and is inconsistent with the Office's contemporaneous construction of the 1959 amendment to that statute. Therefore, I have determined that the 1967 staff letter does not represent a correct reading of the law.

⁴ The KBA has pointed to some language in the legislative debates on the Glass-Steagall Act to support the proposition that an intrastate restriction should be read into section 30. In discussing the conference report on the Glass-Steagall Act, Rep. Perkins asked Rep. E. Gorman whether the bill contained any provision that would allow a national bank to relocate its main office among states. Rep. E. Gorman responded only that "they [the amendments] provide for interstate merger among national banks." *See* 128 Cong. Rec. H8437 (daily ed. October 1, 1982). Rep. Perkins then asked Rep. Gorman the same question again. After Gorman's final

Twain's application should be denied because the relocation would result in Bancshares, a Missouri bank holding company, controlling a Kansas bank, despite the fact that Kansas has not enacted legislation authorizing interstate acquisitions under the Douglas Amendment to the BHCA.⁷ However, there is nothing in 12 U.S.C. § 30 to suggest that the Comptroller's decisions under that statute are constrained by considerations related to the BHCA. Indeed, the BHCA is primarily administered by another agency, the FRB. *See Whitney National Bank v. Bank of New Orleans*, 379 U.S. 411 (1965). Moreover, there is significant judicial precedent supporting the proposition that national bank main office relocations are governed solely by 12 U.S.C. § 30 and, if the requirements of that section are met, the Comptroller may approve such relocations without regard to other federal or state banking laws.

In *Ramapo Bank v. Camp*, 425 F.2d 333 (3d Cir.), *cert. denied* 400 U.S. 828 (1970), the U.S. Court of Appeals for the Third Circuit upheld the Comptroller's approval of a national bank's relocation of its main office to an adjacent town and establishment of the former main office as a branch. At that time, New Jersey law prohibited state banks from relocating outside their home communities and also would have barred the defendant bank from branching into the adjacent town since the New Jersey branching statute, which was made applicable to national banks by the McFadden Act,⁸ contained a home office protection provision. 425 F.2d at 337. The plaintiffs challenged the main office relocation as merely a subterfuge whereby the national bank accomplished indirectly (*i.e.*, a main office relocation and operation of its former head office as a branch) what it could not do directly (*i.e.*, establish a branch in the adjacent community). The plaintiffs also argued that the defendant's combined main office relocation and branch establishment undermined the doctrine of competitive equality between national and state banks, which is incorporated into the branching provisions of the McFadden Act. *Id.* at 340.

The court rejected all of the plaintiff's arguments and upheld the Comptroller's finding that the main office

relocation was *bona fide* and not merely a subterfuge to evade branching laws. Additionally, the court stated that 12 U.S.C. § 30 is self-contained and must be read independently of the McFadden Act and state laws and that the principles of competitive equality have no application to main office relocations. 425 F.2d at 340-49. The court stressed that nothing in section 30 makes relocations dependent on other federal or state laws and noted that "[s]ection 30 controls with respect to an application for a national bank's main office relocation free of the impact of state banking laws or policy. . . ." 425 F.2d at 344. Thus, the court refused to legislate by reading restrictions imposed by McFadden and state laws into the plain language of section 30.

The *Ramapo* case is consistent with *Traverse City State Bank v. Empire State Bank*, 228 F. Supp. 984 (W.D. Mich. 1964), which upheld a Comptroller's decision allowing a national bank to relocate its main office in a manner inconsistent with state law and to operate its former main office as a branch. The court, also noting that section 30 is self-contained and that, unlike McFadden, it does not incorporate state law, stated that:

It was apparently the intent of Congress not to limit the relocation of main offices of national banking associations by reference to state banking laws, since there is no such limitation. 12 U.S.C. § 30.

If we were to hold [that main office relocations are subject to state laws], as plaintiffs urge us to do, we would write into section 30 of the National Banking Act that which Congress decided not to include in the Act. This court would thus be legislating and usurping the power of Congress. (228 F. Supp. at 992 (emphasis in original).)

Thus, this court also refused to construe 12 U.S.C. § 30 as incorporating McFadden or state laws.

The case of *Marion National Bank of Marion v. Van Buren Bank*, 418 F.2d 121 (7th Cir. 1969), involved a fact situation similar to those in *Ramapo* and *Traverse City*, but the court reached a contrary result. The defendant bank was prevented from establishing a branch in Marion, Indiana, because the city was closed to branching by Indiana's home office protection law. The bank attempted to relocate its main office to Marion and establish a branch at the site of its former main office. 418 F.2d at 122-23. The *Marion* court, viewing the transaction as a mere subterfuge to evade branching laws, used a conjunctive reading of 12 U.S.C. §§ 30 and 36 to hold that the main office relocation and the branch retention should be viewed as a single transaction prohibited by Indiana branch

⁷The Douglas Amendment, 12 U.S.C. § 1842(d), prevents the Federal Reserve Board (FRB or Board) from approving any holding company's application to acquire a bank located outside the state in which the operations of the bank holding company's banking subsidiaries are principally conducted "unless the acquisition of such shares or assets of a state bank by an out-of-state bank holding company is specifically authorized by the statute laws of the State in which such a bank is located, by language to that effect and not merely by implication."

⁸The McFadden Act, 12 U.S.C. § 36, restricts the establishment of branches by national banks to the state in which they are situated and only permits national banks to branch to the extent state banks are permitted to branch by state law. 12 U.S.C. § 36(c).

the law as incorporated by McFadden, 10 at 124. However, the court made clear that if the defendant bank had acted only to relocate its main office to Marion, the relocation would have been authorized by 12 U.S.C. § 30 without regard to McFadden and Indiana law. See id. at 123-24. Thus, even this opinion, which was criticized by the *Ramapo* court, supports the view that a simple main office relocation such as the one proposed by Mark Twain is permissible upon compliance with 12 U.S.C. § 30 without regard to McFadden, state banking laws, or the doctrine of competitive equality.⁹

These cases all support the view that a simple main office relocation is governed solely by 12 U.S.C. § 30 and not by other federal or state laws. Although the cases all concerned whether section 30 should be construed to incorporate McFadden and state laws rather than Douglas, the underlying principle regarding the self-contained nature of section 30 appears to be equally applicable to the latter. Just as the language of section 30 does not incorporate McFadden or state law, it also does not incorporate Douglas. Moreover, the primary intent behind Douglas was to replicate McFadden at the holding company level so that branching restrictions could not be circumvented through the use of holding company banks. See 102 Cong. Rec. 6860 (1956) (comments of Senator Douglas); *Lewis v. BT Investment Managers, Inc.*, 447 U.S. 27, 47 (1980). See also *Bank of New England Corporation*, 70 Fed. Res. Bull. 374, 385 (1984). Since the courts have determined that simple national bank main office relocations under 12 U.S.C. § 30 are in no way constrained by the McFadden Act, a similar conclusion should be reached regarding the Douglas Amendment, which was designed to replicate McFadden on the holding company level.

Finally, even if it is assumed, *arguendo*, that the Douglas Amendment has some relevance to the Comptroller's decisions under 12 U.S.C. § 30, it appears that Mark Twain's relocation would not be

in fact. Mark Twain has articulated reasonable economic and business justifications for its desire to relocate. Moreover, it cannot be doubted that Mark Twain intends a *bona fide* relocation of its main office. The Bank will cease all operations at its former location. While that bank called Mark Twain Kansas City Bank may provide continued services at the former location but since the two banks are separately incorporated, have different regulators, and have well separated bank records, capital structure, personnel, and financial statements, there is no reason to consider the affiliated bank a subsidiary of Mark Twain so that the offices of that affiliated bank could be considered branches of Mark Twain. The bank is not a subsidiary of the Comptroller of the Currency or the Applications Committee of the Federal Reserve Bank of the 12 National Banks in Chicago. In May 1982, the bank was approved for its primary operations, including the acquisition of the Federal Reserve Bank of Chicago, and the acquisition of the bank's operations at the age of 100.

prohibited by Douglas. It is well settled that the Douglas Amendment is not applicable to all interstate bank holding company transactions; it is only applicable to transactions that require the filing of applications with the FRB under section 3(a) of the BHCA, 12 U.S.C. § 1842. See, e.g., *Lewis v. BT Investment Managers*, 447 U.S. at 47; *South Dakota v. National Bank of South Dakota*, 219 F. Supp. 842, 853-54 (S.D.S.D. 1963), *aff'd* 335 F.2d 444, 448-49 (8th Cir. 1964), *cert. denied* 379 U.S. 970 (1965); *Leuthold v. Camp*, 273 F. Supp. 695, 702 (D. Mont. 1967), *aff'd* 405 F.2d 499 (9th Cir. 1969). *Accord KSAD, Inc.*, 70 Fed. Res. Bull. 44, 45 (1983); Board Ruling of October 18, 1956, summarized in 1 Fed. Res. Reg. Serv. ¶ 4-250; Board letter of August 24, 1977, quoted in *Marshall & Ilsley Corp. v. Heimann*, 652 F.2d 685, 700 n. 24 (7th Cir. 1981), *cert. denied* 455 U.S. 981 (1982).

Section 3(a) of the BHCA does not require Board approval for a main office relocation by a bank subsidiary of a holding company.¹⁰ Thus, no section 3 application appears to be required and the Douglas Amendment is therefore inapplicable to Mark Twain's application.¹¹ Consequently, it is my conclusion that approval of Mark Twain's application pursuant to 12 U.S.C. § 30 is not constrained by the Douglas Amendment.

IV. State Law

The KBA argued in their comments that approval of Mark Twain's application would result in a violation of Kansas holding company law, specifically Kansas Statutes Annotated § 9-505a. See KBA Comments at

¹⁰Section 3(a) of the BHCA, 12 U.S.C. § 1842(a), requires Board approval

(1) for any action to be taken that causes any company to become a bank holding company, (2) for any action to be taken that causes a bank to become a subsidiary of a bank holding company, (3) for any bank holding company to acquire direct or indirect company ownership or control of the voting shares of any bank if, after such acquisition, such company will directly or indirectly own or control more than 5 per centum of voting shares of such bank, (4) for any bank holding company or subsidiary thereof, other than a bank, to acquire all or substantially all of the assets of a bank, or (5) for any bank holding company to merge or consolidate with any other holding company. 12 U.S.C. § 1842(a). Mark Twain's relocation would not result in the creation of a bank holding company, as defined in the BHCA, nor would it result in a holding company's acquisition of the voting shares or assets of a bank. Bancshares' acquisition of Mark Twain (then called Hub State Bank) occurred in 1982 and was approved by the Board. See 68 Fed. Res. Bull. 203 (1982).

¹¹ This result is consistent with the purpose of the BHCA, which was to regulate the activities of bank holding companies but not their subsidiary banks. See, e.g., *Cameron Financial Corporation v. Board of Governors*, 497 F.2d 841, 845, 848 (4th Cir. 1974); H. Rep. No. 91-387, 91st Cong., 1st Sess. 15 (July 23, 1969). One Bank Holding Company Legislation of 1970: Hearings Before the Senate Committee on Banking and Currency, 91st Cong., 2d Sess. 157-58 (comments of FRB Chairman Burns).

p. 10. As noted previously, the courts have held that a national bank's authority to relocate its main office pursuant to 12 U.S.C. § 30 is not constrained by state law or policy. However, even assuming, *arguendo*, that this was not the case, Kansas law would not be violated as a result of Mark Twain's relocation.

Kansas Stat. Ann. § 9-505a provides:

After the effective date of this act [March 21, 1974], it shall be unlawful for any bank holding company, as defined by K.S.A. 9-504, to be organized, or transact business within the state of Kansas except that any such company operating within the state on the effective date of this act may continue its operations subject, however, to the restrictions and limitations of this act. [Emphasis added.]

Thus, section 9-505a prohibits "bank holding companies," as defined in Kan. Stat. Ann. § 9-504, from transacting business in the state of Kansas. Section 9-504(a) defines a "bank holding company" as, *inter alia*, any company:

(1) Which directly or indirectly owns, controls or holds with power to vote, twenty-five percent (25%) or more of the voting shares of each of two (2) or more banks or of a company which is or becomes a bank holding company by virtue of this act. . . .

A "bank" is defined as "any national bank association or any state bank, savings bank, or trust company." Kan. Stat. Ann. § 9-504(c).

Neither the definition of "bank holding company" nor the definition of "bank" is limited, by its terms, to Kansas institutions. Thus, it is arguable that Bancshares, by virtue of its control of numerous Missouri banks in addition to Mark Twain, is a "bank holding company" under the Kansas law and is prohibited by section 9-505a from "transacting business" in Kansas, unless it falls under the grandfather clause. However, considerable evidence exists supporting the view that the definition of the term "bank" in the Kansas bank holding company law should be construed to include only institutions located in Kansas and that Bancshares, by virtue of its control of one Kansas bank (*i.e.*, the relocated Mark Twain) would not be a "bank holding company" which is prohibited from transacting business in the state. Moreover, this construction of the statute is supported by the fact that interpreting Kansas law to prevent Mark Twain's relocation would raise serious issues under the Commerce Clause of the Constitution.

A Interpretation of State Law

An examination of the various provisions of the Kansas bank holding company laws reveals that interpreting the definition of "bank" to include out-of-state institutions leads to potentially unconstitutional results. For example, Kan. Stat. Ann. § 9-505(2) provides that it is unlawful for any bank holding company to, *inter alia*, "acquire direct or indirect ownership or control of any voting shares of any bank if, after such acquisition, such company will directly or indirectly own or control more than twenty-five percent (25%) of the voting shares of two or more banks." If the term "bank" is construed to include institutions located outside of Kansas, section 9-505(2) would purport to prohibit any company which controlled a bank anywhere from acquiring another bank, even if the transaction had no connection with Kansas. The Supreme Court has indicated that the Commerce Clause of the U.S. Constitution, Art. I, § 8, cl. 3, precludes the application of a state statute to commerce that takes place wholly outside of the state, whether or not the commerce has effects within the state. *Edgar v. Mite Corp.*, 457 U.S. 624, 642-43 (1982). *See also Southern Pacific Co. v. Arizona*, 325 U.S. 761, 775 (1945); *Baldwin v. G.A.F. Seeling*, 294 U.S. 511, 521 (1935); *United States Brewers Ass'n, Inc. v. Healy*, 692 F.2d 275, 282-284 (2d Cir. 1982), *aff'd* - U.S. -, 78 L Ed.2d 248 (1983). Thus, Kansas clearly cannot constitutionally regulate acquisitions by out-of-state holding companies of banks in other states, as section 9-505(2), using a definition of the term "bank" that is not limited to institutions in Kansas, would purport to do.

Notably, several other provisions of the Kansas bank holding company law raises similar constitutional problems if the definition of the term "bank" is not limited to Kansas institutions. *See, e.g.*, Kansas Stat. Ann. §§ 9-505(1) (making it unlawful to take any action which results in a company becoming a bank holding company, as defined in the statute); 9-505(3) (making it unlawful for any bank holding company, as defined in the statute, to acquire substantially all of the assets of a bank); 9-505(4) (making it unlawful for any bank holding company, as defined in the statute, to merge with another bank holding company); 9-505(b) (making it generally unlawful for any bank holding company, as defined in the statute, to acquire ownership of any company which is not a bank). Thus, literally construing the section 9-504(c) definition of "bank" results in the attribution to the Kansas legislature of an unconstitutional purpose in enacting the Kansas bank holding company laws, *i.e.*, the regulation of transactions totally outside the state's borders. However, it is well settled that statutes must be construed to avoid questions of their constitutionality, if possible, and it must be presumed that the legislature acted with the

constitutional keeping within constitutional limits. See 2A *Statutory Construction* at § 4.11.1. Construing the definition of "bank" to include only Kansas institutions will serve this purpose, since such a construction removes the potential extraterritorial effect of the previously discussed provisions. Consequently, the better view is that the meaning of the term "bank," as used in the Kansas bank holding company statutes, is limited to institutions located in Kansas. A company which controls only one Kansas bank is therefore not a "bank holding company" and, accordingly, is not subject to section 9-505a's prohibitions.

Significantly, this construction is supported by the legislative intent behind the Kansas bank holding company laws. The Kansas Attorney General has stated that, like the federal BHCA, the purpose of the Kansas bank holding company statute was to provide safeguards "against undue concentration of control of banking activities" in those business entities "that may be used as media for acquiring and maintaining in perpetuity management and control of bank shares or assets." Op. Kan. Atty. Gen. No. 82-196 (September 8, 1982). The Attorney General also indicated that in regulating bank holding companies, both Congress and the Kansas legislature were concerned with the concentration of commercial bank facilities in a particular area under a single control and management. *Id.* The Kansas legislature apparently determined that a holding company's control of two or more Kansas banks is undesirable since formation of multibank holding companies in Kansas is prohibited. However, the Kansas legislature clearly decided that ownership of *one* Kansas bank by a holding company does not constitute undue concentration of control of commercial banks since one-bank holding companies are permitted by Kansas law. Construing the Kansas bank holding company law to permit control of one Kansas bank by an out-of-state holding company like Bancshares is therefore perfectly consistent with the Kansas legislature's purposes—preventing the concentration of control of Kansas banks.

For the above reasons, it appears that the term "bank" should be construed to include only Kansas institutions and that Bancshares would not become a "bank holding company" by reason of Mark Twain's relocation. Consequently, section 9-505a would not be violated by virtue of this transaction.¹

¹ Even assuming, arguendo, that Bancshares is a bank holding company, the question of section 9-505a is questionable whether the relocation of Mark Twain's Bank would constitute "transacting business" in Kansas within the meaning of the statute. The KBA has argued that Mark Twain's Bank is not transacting business in Kansas because it is not doing a banking business under Missouri and Kentucky laws merely by owning shares of banks located in those states.

B. Commerce Clause

If section 9-505a is construed to prevent an out-of-state bank holding company like Bancshares from controlling one Kansas bank, while allowing an in-state company to do so, the statute may be violative of the Commerce Clause. While the Douglas Amendment may permit states to legislate in a manner which would normally be inconsistent with the Commerce Clause in authorizing interstate bank holding company acquisitions, see *Northeast Bancorp, Inc. v. Board of Governors*, 740 F.2d 203, 208 (2d Cir.), *cert. granted* 53 U.S.L.W. 3483 (January 7, 1985), this authority does not extend to situations in which section 3 of the BHCA and, consequently, the Douglas Amendment are inapplicable. See *Lewis v. BT Investment Managers*, 447 U.S. at 47-49. *Cf. KSAD, Inc.*, 70 Fed. Res. Bull. 44, 46 (1984) (stating that it is doubtful that a state has authority to impose a more stringent burden on interstate commerce than that contained in the Douglas Amendment). As discussed previously, section 3 and Douglas appear to be inapplicable to this transaction because no holding company acquisition is involved. Thus, assuming, *arguendo*, that a state can validly regulate the transaction at all, any state regulation must comport with the Commerce Clause. See *Lewis v. BT Investment Managers*, 447 U.S. at 48-49.

The Supreme Court has established the following analysis for determining whether a state statute violates the Commerce Clause. If the statute in question is overtly discriminatory or effects simple economic

ing in particular activities "directly or indirectly" or through subsidiaries. See, e.g., Kan. Stat. Ann. §§ 9-505(2) (prohibiting a bank holding company from acquiring "direct or indirect" control of 25 percent or more of the voting shares of two or more banks), 9-505(3) (prohibiting a holding company's subsidiary from acquiring the assets of a bank). The absence of similar language in section 9-505a may evidence the legislature's intent to make the statute's prohibition apply only to the holding company itself, not its subsidiaries. See 2A *Statutory Construction* at §§ 47.23, 47.24 (discussing the rule of *expressio unius est exclusio alterius*).

Moreover, the KBA's argument requires that Mark Twain's separate corporate entity be disregarded so that the Bank's activities are attributed to Bancshares for purposes of section 9-505a. However, courts have clearly recognized the corporate separateness of parent companies and their subsidiaries under Kansas law. See, e.g., *Quarles v. Fuqua Industries, Inc.*, 504 F.2d 1358, 1362 (10th Cir. 1974); *Continental & Commercial Trust & Savings Bank v. Garden City Co.*, 123 Kan. 659, 256 P. 983, 985-86 (1927). Their separate corporate entities should be ignored with great reluctance. See *Sampson v. Hunt*, 233 Kan. 572, 665 P.2d 743, 751 (1983). Thus, it is questionable whether the mere ownership of the shares of a bank located in Kansas would place Bancshares in the position of "transacting business" within the meaning of Section 9-505a. *Cf.* Decision of the Comptroller of the Currency on the Applications of Dimension Financial Corporation to Charter 31 National Banks in 25 States Appendix 9.12, 30-31 (May 9, 1984) (determining that a holding company is not doing a banking business under Missouri and Kentucky laws merely by owning shares of banks located in those states).

protectionism, the Court will apply a virtual *per se* rule of invalidity. See *Philadelphia v. New Jersey*, 437 U.S. 617, 624 (1978). However, a statute that affects both interstate and local business equally may be constitutional if narrowly drawn. Such a statute may be upheld if it regulates evenhandedly to effectuate a legitimate local public interest and its effects on interstate commerce are only incidental. However, even an evenhanded statute which implements a legitimate local interest will be struck down if the burden imposed on such commerce is excessive in relation to the putative local benefits. The test then becomes one of degree and the extent of the burden that will be tolerated depends on the nature of the local interest involved and on whether it could be promoted equally well with a less burdensome statute. *Lewis v. BT Investment Managers*, 447 U.S. at 36. See *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142 (1970).

In *Lewis v. BT Investment Managers*, *supra*, the leading Commerce Clause case involving bank holding companies, the Supreme Court considered a Florida statute which prohibited out-of-state banks, trust companies and holding companies from owning or operating banks, trust companies and investment advisory service organizations in Florida. Thus, the statute purported to prohibit Bankers Trust New York Corporation, a holding company located in New York, from owning and operating Bankers Trust Investment Managers Corporation, an investment advisory subsidiary in Florida. The Court determined that the Florida statute was "parochial" in the sense that it overtly purported to prevent out-of-state companies from competing in Florida markets. However, the Court decided that it need not determine whether the statute was *per se* invalid because, even if it wasn't, disparate treatment of out-of-state bank holding companies could not be justified as an incidental burden necessitated by legitimate local concerns. The state asserted various justifications for its statute including discouraging undue economic concentration in the area of high finance, protection of local residents from fraud, and facilitation of local control over locally based financial activities. The Court noted that while these may be legitimate areas for state regulation, these interests did not justify the heavily disproportionate burden the statute placed on bank holding companies that operate principally outside the state.

In analyzing the Kansas statute pursuant to the aforementioned test, it must first be determined whether the statute is flagrantly discriminatory or results in simple economic protectionism and is thus *per se* invalid. Notably, unlike the statute considered in *Lewis*, section 9-505a is facially neutral. It prevents the transaction of business in the state by multibank holding companies whether local or out-of-state. However, it is

well established that a facially neutral statute will be struck down if its effect is to discriminate against or unduly burden interstate commerce. See *Hunt v. Washington Apple Advertising Comm'n*, 432 U.S. 353 (1977). If section 9-505a is interpreted to prevent an out-of-state holding company's ownership of a bank in Kansas, where such ownership would otherwise not be prohibited, the statute would have the effect of preventing out-of-state holding companies from competing in Kansas financial markets. Thus, similar to the statute in *Lewis*, this application of section 9-505a can be classified as "parochial." However, in light of the *Lewis* Court's treatment of the *per se* issue, it is not certain that a court would hold section 9-505a *per se* invalid under the Commerce Clause.

Assuming, *arguendo*, that the statute is not *per se* invalid, a court would apply the balancing test described previously in order to determine whether the impact on interstate commerce resulting from the statute can be upheld as a mere incident to the state's right to legislate on a matter of legitimate local interest. As noted previously, it appears that the statute, if applied to prevent the control of one bank in Kansas by an out-of-state bank holding company where such control would otherwise be permitted, clearly imposes a significant burden on interstate commerce because local holding companies can own one bank in Kansas. The effect of the law would be to make the out-of-state location of a holding company's banking subsidiary an effective barrier to the holding company's ownership of a bank in Kansas where such ownership would otherwise be permissible because of the inapplicability of the Douglas Amendment. Thus, the statute has a significant discriminatory impact on companies that own banks in other states.

Moreover, the statute has a significant protectionist effect since it effectively insulates Kansas banks from the potential competition provided by banks owned by out-of-state bank holding companies. Thus, similar to the Florida law in *Lewis*, the Kansas statute "prevents competition in local markets by out of state firms with the kinds of resources and business interests that made them likely to attempt *de novo* entry." *Lewis v. BT Investment Managers*, 447 U.S. at 39. The protectionist effect of the Kansas statute therefore appears as significant as that of the Florida statute in *Lewis*. Thus, it is clear that section 9-505a, if applied to prevent an out-of-state holding company's control of one Kansas bank in situations where the Douglas Amendment is inapplicable, places a substantial burden on interstate commerce.¹³

¹³The Supreme Court's decision in *Faxon Corp. v. Governor of Maryland*, 437 U.S. 117 (1978), is apposite to *Faxon* as the Court upheld a Maryland statute which prohibited purchase and sale of

When a statute results in this type of effective discrimination, the burden falls upon the state to justify it both in terms of the local benefits flowing from the statute and the unavailability of less restrictive alternatives adequate to preserve the local interests at stake. See *Hunt v. Washington Apple Advertising Comm'n*, 432 U.S. at 353; *Dean Milk Co. v. Madison*, 340 U.S. 349, 354 (1951). The *Lewis* Court expressly stated that disparate treatment of out-of-state bank holding companies cannot be regarded as a mere incidental burden necessitated by legitimate local concerns. See *Lewis v. BT Investment Managers*, 447 U.S. at 42. Thus, it is questionable whether Kansas would be able to articulate policy objectives sufficient to justify the burden placed on interstate commerce by section 9-505a. As noted previously, the Kansas Attorney General has indicated that the legislative purpose of the state's bank holding company laws is the prevention of undue economic concentration of bank ownership. The *Lewis* Court, however, noted that there was no demonstrated basis for concluding that all out-of-state bank holding companies are likely to possess the evils of monopoly power, expressly rejected a similar rationale as justification for preventing out-of-state holding companies from entering local markets.¹⁴ 447 U.S. at 43. Moreover, as noted earlier, permitting ownership of one Kansas bank by an out-of-state holding company in situations where the

of petroleum products from opening or operating retail service stations in the state despite the fact that, since there were no in-state producers and refiners, the law only affected out-of-state companies. The Court found that the statute did not discriminate in favor of local companies since there were no in-state producers and refiners to be so favored. Moreover, the Court stressed that the Maryland statute did not obstruct the flow of goods into the state—out-of-state producers and refiners could still sell petroleum products to retailers in Maryland and out-of-state companies (i.e., companies that were not producers and refiners) could still own retailers in the state. Finally, the Court concluded that the Commerce Clause does not protect the particular structure or method of operation in a particular market.

There is some similarity between the Maryland statute in *Exxon* and section 9-505a. Both discriminate against kinds of conglomerate organizations in a particular industry. However, unlike the Maryland statute, section 9-505a clearly obstructs the flow of interstate commerce since it prevents out-of-state holding companies from controlling a Kansas bank to provide banking services (e.g., deposit taking) in the Kansas market, even in situations where the Douglas Amendment is not applicable. Moreover, section 9-505a only prevents bank holding companies with principal operations outside Kansas from owning a bank in the state. Holding companies which own only a bank in Kansas are permitted. Thus, the statute discriminates among bank holding companies according to the extent of their extrajurisdictional activity. The Supreme Court considered this discriminatory treatment of interstate commerce in *Lewis v. BT Investment Managers*, 447 U.S. at 42. There, section 9-505a imposed a much greater burden upon interstate commerce than the statute upheld in *Exxon*. The Kansas Supreme Court indicated the state's interest in protecting its financial institutions and promoting local control of financial institutions by preventing out-of-state holding companies from the Florida statute was not sufficient to justify the burden on interstate commerce of section

Douglas Amendment is inapplicable is an alternative which is less burdensome on interstate commerce and fully effectuates the state's legislative purpose. Thus, while preventing the concentration of control of Kansas banks is a valid state interest, it is doubtful, under *Lewis*, that a court would accept this interest as justifying the substantial impact on interstate commerce of section 9-505a if interpreted to prohibit ownership of one Kansas bank by an out-of-state holding company where such ownership would otherwise be permissible.¹⁵

In conclusion, it appears that construing section 9-505a to prevent an out-of-state holding company's ownership of a bank in Kansas, where the Douglas Amendment is inapplicable, may raise serious difficulties under the Commerce Clause. Such a construction is clearly to be avoided. See *2A Statutory Construction* at § 45.11.

C. Summary

Substantial evidence exists to support the view that control of one Kansas bank by an out-of-state holding company does not violate section 9-505a. This interpretation is supported by the fact that significant constitutional problems will arise if section 9-505a is interpreted to prohibit Mark Twain's relocation. For these reasons, the bank's relocation is not prohibited by section 9-505a even assuming, *arguendo*, that state holding company law is relevant to bank main office relocations pursuant to 12 U.S.C. § 30.

V. Conclusion

The requirements of 12 C.F.R. § 5.40 have been met and Mark Twain's relocation is authorized by 12 U.S.C. § 30. Accordingly, approval of Mark Twain's application to relocate its main office from Independence, Missouri, to Overland Park, Kansas, is hereby granted.

Michael A. Mancusi
Senior Deputy Comptroller
for National Operations

¹⁴It is useful to distinguish between the state's desire to prevent the concentration of control of Kansas banks and section 9-505a's effective prohibition on ownership of a bank in Kansas by companies which own banks in other states. The former is a legitimate state interest but there is no apparent connection between the prevention of concentration of control of Kansas banks and the out of state activities of companies which own one Kansas bank. Thus, the state does not appear to have a legitimate interest in regulating such out-of-state activities. Cf. *Edgar v. Mite Corp.*, 457 U.S. at 642-645 (suggesting that a state has no legitimate interest in regulating extrajurisdictional activities, even if such activities have effects in the state).

Holding Company Indebtedness

March 12, 1985

The Honorable
Edwin J. Gray, Chairman
Federal Home Loan Bank Board
1700 G Street N.W.
Washington, D.C. 20552

Dear Mr. Gray:

The Office of the Comptroller of the Currency (OCC), as the primary regulator of national banks, wishes to comment on the Board's notice of proposed rulemaking (49 *Fed. Reg.* 48564) entitled "Holding Company Indebtedness." As discussed below, we see no legitimate basis for the Board to change its regulations in the manner proposed to discriminate against nonbank banks chartered by the OCC. Accordingly, we urge the Board not to adopt the proposal.

Under the Board's current regulations, a nondiversified savings and loan holding company and its nonsavings and loan subsidiaries must obtain prior approval from the FSLIC for all debt incurred that exceeds 15 percent of the holding company's consolidated net worth. The Board has authorized several exemptions to prior approval requirement, including an exemption for debt issued by a "savings and loan holding company's subsidiary bank which is an insured bank of the Federal Deposit Insurance Corporation[.]" 12 C.F.R. 584.6(b)(4). In a similar manner, the Board by regulation has approved, without prior application, and has exempted from the computation of the 15 percent limitation, any debt incurred by a "service corporation subsidiary of an [FSLIC] insured institution subsidiary. . . ." 12 C.F.R. 584.6(c)(1).

The Board now proposes to narrow the FDIC-insured bank exemption by defining the term "bank" to mean "a bank as defined in section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(c)). . . ." Furthermore, the exemption that excludes the debt or securities of a service corporation subsidiary bank of an FSLIC insured subsidiary from the 15 percent limitation will apply only if that subsidiary bank is a bank within the Holding Company Act's definition. The effect of the proposed amendments would be to require a nonbank bank chartered by OCC to seek prior Board approval if its proposed debt, plus the aggregate outstanding debt of the S&L holding company and its non-FSLIC insured subsidiaries, exceeds 15 percent of the consolidated net worth of the holding company at the end of the preceding fiscal year.

The OCC urges the Board to withdraw the proposed

rulemaking and retain the exemptions from the prior approval requirements in their current form. We fully appreciate the Board's duty to regulate acts or transactions involving the issuance of debt or securities that are injurious to the nondiversified savings and loan holding company. But as explained below, we believe the OCC's current chartering standards for nonbank banks and the close supervision each nonbank bank receives after commencing operation adequately protect the savings and loan holding company from financial injury.

When evaluating an application to charter a nonbank bank, the OCC employs the same standards used for an application to charter a bank meeting the definition of that term in § 2(c) of the Bank Holding Company Act. As described in 12 C.F.R. 5.20(b), the OCC considers a bank's future prospects for earnings, the character of bank management, whether the bank's capital structure is adequate, whether the bank will serve the convenience and needs of the local community, the financial history and condition of the bank, whether the bank has complied with all provisions of the National Bank Act, and whether the bank's corporate powers are consistent with the purposes of the Federal Deposit Insurance Act.

The OCC also closely supervises the new institution during its first years to insure a sound and profitable operation. Although examinations are tailored in length and intensity to the operations of the bank under examination, all banks chartered by OCC, including trust banks, credit card banks, nonbank banks and banks engaged in the activities described in § 2(c), are given regulatory scrutiny in proportion to their condition and management. This is true irrespective of whether the bank is owned by a bank holding company, a savings and loan holding company or an industrial corporation. For this reason, debt incurred by a nonbank bank poses no greater risk to the savings and loan holding company than debt incurred by any other type of OCC-chartered national bank. Accordingly, the Board's previous determination that the debt incurred by an FDIC-insured bank does not require the Board's prior approval is equally valid for all OCC-supervised banks that are FDIC-insured. In light of the foregoing, it is unclear why the Board would seek to adopt rule changes that discriminate between classes of national banks chartered and supervised by the OCC.

Finally, we understand that the Board's proposed amendments require nonbank banks to seek the Board's prior approval even to gather deposits. There is no limit in the National Bank Act to the amount of deposits a national bank may hold. A national bank is not required by any statute or regulation to obtain

OCC approval to hold debt in the form of deposits. For the Board to so require of an OCC chartered national bank is clearly contrary to the statutory scheme established by Congress.

In conclusion, we ask the Board to withdraw its proposed rulemaking, on the ground that the nonbank bank is as well supervised as any other FDIC insured bank and because prior approvals of the type proposed here have not been authorized by Congress for national banks. For our part, we will be happy to have our staff explore with yours ways of keeping each other informed about the condition of the nonbank bank and its affiliates.

Richard V. Fitzgerald
Chief Counsel

Real Estate Investment Activities

March 29, 1985

Mr. William W. Wiles, Secretary
Board of Governors of the Federal Reserve System
Washington, D.C. 20551

Re: Docket No. R-0537

Dear Mr. Wiles:

This letter is in response to a request for comments, 50 *Fed. Reg.* 4519 (Jan. 31, 1985), on whether the Board should commence a rulemaking proceeding under the Bank Holding Company Act (BHCA) to define permissible real estate investment activities for bank holding companies and their bank and nonbank subsidiaries.

As explained below, we believe there are substantial questions as to whether the Board has authority to define the permissible activities of holding company banks and their operating subsidiaries. In our view, those questions should be resolved by Congress. As far as real estate investment is concerned, the Board should amend its Regulation Y to permit bank holding companies to engage, through a subsidiary of the holding company, in essentially passive real estate investment managed and controlled by others.

Activities of Bank Subsidiaries

Among the considerations under study by the Board is the possibility of amending § 225.22(d)(2) of Regulation Y (12 C.F.R. 225.22(d)(2)) to apply the nonbanking activity restrictions of section 4 of the BHCA to nonbank subsidiaries of holding company state banks. Under present form § 225.22(d)(2) permits a holding company's state bank to establish, without the Board's approval, a wholly owned subsidiary to en-

gage in nonbanking activities that the state bank may conduct directly, even though the activities are not otherwise permitted for bank holding companies. Clearly, should the Board reverse this long-held position and thereby restrict the activities of subsidiaries of state banks to the "closely related" standard of § 4(c)(8) of the BHCA, a question immediately arises whether the Board could amend § 225.22(d)(1) to apply the same "closely related" standard to the activities of a holding company's national banks, particularly if those activities are conducted through a national bank's operating subsidiary.

We believe Congress did not intend that the BHCA determine the powers of state banks or their subsidiaries. In our view, an attempt by the Board to extend its jurisdiction to these entities will exceed the authority given to it by Congress. Moreover, it will trespass on the responsibilities of state banking authorities and state legislatures.

The OCC is the sole regulatory agency authorized by Congress to determine the permissible activities of national banks and their subsidiaries. The Comptroller's judgment and expertise as to such matters is not subject to review or veto by the Federal Reserve. The legislative history of the BHCA itself reaffirms Congress' intention to limit the Board's jurisdiction to holding companies and their nonbank subsidiaries.

From a practical standpoint, attempts by the Board to regulate the activities of operating subsidiaries of national banks would undercut a major role of the Comptroller and compound the existing overlap in the jurisdictions of the three bank regulatory agencies. Without a clear determination by Congress, it does not make sense to change the current regulatory scheme so significantly.

These points are discussed in detail in the attached Appendix. The Congressional testimony of Chairman Burns in 1970 and Governor Partee in 1980 is particularly noteworthy, as is the Board's opposition in 1980 to legislation prohibiting a national bank from engaging directly or indirectly in any activity which the Board has determined to be improper for bank holding companies.

Real Estate Investment

The Board has also requested comment on whether Regulation Y should be amended to permit bank holding companies to engage in real estate investment. For the reasons below, we urge the Board to permit this activity, and we believe it should be conducted through a separately incorporated subsidiary of the holding company.

Bank holding companies should be allowed to engage in real estate investment for several reasons. First, real estate investment is an activity closely related to banking. Banks are not novices in real estate matters. Loans secured by real estate represent a major line of business for banks. Many banks employ real estate specialists, and the type of analysis performed in deciding whether to finance a real estate project is no different than the analysis applied when taking an equity interest in the project. Moreover, small business investment companies (SBIC's) owned by commercial banks sometimes take an equity interest in projects they finance, and national banks are authorized by 12 C.F.R. 7.7480 to take an equity interest in community development projects. Finally, for two decades national banks, under the authority of 12 C.F.R. 7.7312, have occasionally taken, in addition to or in lieu of interest, a share in the profit, income or earnings from a borrower's business enterprise.*

Second, bank holding companies now suffer a significant disadvantage in financing real estate because they are confined to a single technique: lending money. However, the traditional construction and permanent mortgage loans are no longer the only means of financing available. Increasingly, borrowers are interested in designing equity participations in lieu of more traditional loans with interest payments. Since this type of financing cannot generally be provided by banks and bank holding companies, borrowers must look to savings and loan associations, life insurance companies and other institutions.

The competition of savings and loan associations is a striking example of present competitive inequities. Under Federal Home Loan Bank Board regulations, a savings and loan may invest up to 3 percent of assets in a service corporation that engages in acquiring real estate for development and in acquiring improved real estate or manufactured homes to be held for rental, resale, remodeling or demolition. (One percent of the

3 percent of assets investment must be for community development purposes.) Moreover, FHLBB regulations permit a savings and loan to lend to its service corporation amounts equal to 10 times the sum of the service corporation's consolidated net worth and its unsecured debt. In some circumstances the ratio can be 20:1. Moreover, the real estate activities of unitary savings and loan holding companies are virtually unlimited as long as the subsidiary savings and loan qualifies as a domestic building and loan under the Internal Revenue Code. As noted in the Mortgage Bankers Association's testimony on S. 2181 in the 98th Congress and in a study of bank equity investment in real estate commissioned by the American Bankers Association, the real estate powers conferred on bank holding companies by the Garn and Treasury bills would fall well short of the existing powers of both unitary savings and loan holding companies and of savings and loan associations.

For the reasons given above, we believe the Board should permit bank holding companies to engage in real estate investment through a separately incorporated subsidiary of the holding company. We do not believe it is necessary to append numerous conditions, such as requiring names and logos different from those of the bank, separate offices, independent boards of directors, etc. These requirements would only prevent the holding company's subsidiary from competing effectively with nonbanking organizations, including savings and loan service corporations and their holding companies. A limitation on common officers and directors would deprive the holding company's real estate subsidiary of real estate expertise possessed by the bank.

In reaching these conclusions, we have assumed that the term "real estate investment" means essentially passive, joint venture investment in projects managed and controlled by others, thereby permitting the bank holding company to share in any appreciation in the value of the investment. Additionally, taking passive equity positions to facilitate the sale or exchange of property should be permitted. On the other hand, for purposes of capital limitations "real estate investment" should not include investment in DPC property, bank premises or community development projects, all of which can now be engaged in by holding company banks.

Defining real estate investment in this way would separate the bank holding company from participation in the commercial activities involved in design, engineering, construction, marketing and similar activities associated with real estate projects. In this respect we note that S. 2181 prohibits bank holding compa

*These are sometimes referred to as "profit-sharing loans" as distinguished from "equity-participation loans" in which the lender takes an equity interest in the project's value or profits in exchange for a reduced interest rate or a waiver of the borrower's equity contribution. In Interpretive Letter No. 244 dated January 26, 1982, and published at Fed. Banking L. Rep. (CCH) ¶ 85,408, the OCC staff approved two transactions as authorized by 12 C.F.R. 7.7312. The first involved a below-market rate loan to a condominium developer calling for the repayment of all loan principal and interest, plus a fixed-dollar amount upon sale of a condominium unit or a percentage of the sale price of each unit sold. The bank would have no ownership interest in the real property. In the second situation, a below-market rate loan financed the acquisition of real property and/or construction of improvements thereon from which the borrower would operate a business. The terms called for monthly installment repayments, plus a balloon payment at maturity that would include a percentage of the appreciation in the value of the business. Again, the bank would have no ownership interest in the business.

Section 4(c)(8) limiting in any form of construction activity.

Since the bank holding company's real estate investment would be essentially passive in nature, it would seem reasonable for the Board to place limits on the real estate subsidiary's voting equity investments in a single real estate project (e.g., no more than 25 percent of total voting equity of the real estate project).

With respect to limiting the holding company's aggregate investment in its real estate subsidiaries, we note that section 104(d) of S. 2181 prescribes a 5 percent limit on the amount of the bank holding company's capital that may be devoted to real estate investment and development. Although the 5 percent figure has been criticized by the industry as too conservative, we believe, at least at the present time, that it is appropriate.

Numerous other thoughtful questions have been raised by the Board in its request for comment. We believe appropriate guidance can be found in the existing model of currently permissible real estate activities of savings and loan associations and in the provisions of S. 2181.

C. T. Conover
Comptroller of the Currency

Appendix

It cannot be maintained that section 4 of the Bank Holding Company Act (BHCA), 12 U.S.C. 1843, governs the powers of a bank holding company's state banks, its national banks, or their subsidiaries. As explained below, an attempt by the Board to extend section 4 to these entities would exceed its authority and trespass on the responsibility of the bank's principal regulators, state or federal.

Section 3 of the BHCA deals with a holding company's acquisition of banks, and section 4 deals with the acquisition of interests in, and the permissible activities of, companies other than banks. Neither section says anything about the permissible activities of banks. This omission is not surprising, since the regulation of banks and the definition of their permissible activities had been lodged in the states and the Comptroller of the Currency for nearly 100 years prior to passage of the BHCA in 1956.

The BHCA did not intend to change this regulatory scheme. As it suggests, the BHCA was designed to regulate bank holding companies and not their subsidiary banks. When the BHCA was enacted in 1956, Congress had a need to address deficiencies in

the regulation of bank holding companies, not the regulation of their subsidiary banks, which Congress regarded as adequately supervised. The Senate Committee report noted that "Considerable care has been taken to provide regulatory control over individual banks by Federal and State authorities. Yet there is at present only a very limited control over the activities of bank holding companies that manage or control banks." S. Rep. No. 1095, 84th Cong., 2d Sess. (1955), *reprinted in* 1956 U.S. Code Cong. & Ad. News 2482, 2483. This theme was repeated in 1970 when the BHCA was amended. The House Committee Report accompanying H.R. 6778, discussing provisions that would amend § 4(c)(8) to prohibit bank holding companies from owning insurance agencies and underwriting mutual funds, stated:

It should be emphasized that these two prohibitions apply only to the bank holding company and its nonbanking subsidiaries, and not to the bank subsidiaries of bank holding companies whose insurance agency and mutual fund operation are governed by other Federal and State laws. This is in keeping with the original concept of the 1956 Act which was to regulate bank holding companies and not their subsidiary banks. (H.R. Rep. No. 91-387, 91st Cong., 1st Sess. 15 (1969).)

The same Committee Report carries a statement by Committee Chairman Patman criticizing the bill because "... it does not prevent a bank subsidiary of a bank holding company or any other banking institution from carrying on such activities if permitted to do so by the bank supervisory agencies." *Id.* at 24.

A full catalogue of instances in which the Board has interpreted the BHCA as inapplicable to the powers exercised by holding company banks is beyond the scope of this letter and is undoubtedly discussed in detail in other comments. See also Wallison & Toumey, *Continued Banking Deregulation Seems Inevitable*, Legal Times (Mar. 5, 1984). It will suffice to note that Chairman Burns in 1970 and Governor Partee in 1980 confirmed in Congressional testimony that the BHCA does not reach the powers of subsidiary banks. Chairman Burns emphasized that the distribution of regulatory authority would remain the same if the Board were given additional authority over the nonbanking activities of one-bank holding companies:

We now have three Federal agencies regulating banks. The agencies that now regulate banks would continue to regulate the banks.

Let us say that you gave the power of regulation to the Federal Reserve Board. The Board would then be simply regulating the bank holding companies,

not the banks themselves. The banks would continue to function under their present supervisory authorities.

... We would not be supervising banks we are not presently supervising. Therefore, the distribution of regulatory functions, as far as the banks are concerned, would remain entirely unchanged. (*One-Bank Holding Company Legislation of 1970: Hearings before the Sen. Comm. on Banking and Currency*, 91st Cong., 2d Sess., Part 1, 157-158 (1970).)

In 1980, Governor Partee stated flatly that whether a bank owned by a bank holding company can sell various types of insurance "depends on the chartering authority, either the Comptroller of the Currency [or] ... the State." *Competition in Banking Act of 1980: Hearing before the Senate Comm. on Banking, Housing & Urban Affairs*, 96th Cong., 2d Sess. 22 (1980).

The Board's published interpretations of Regulation Y acknowledge the exclusive authority of a bank's state or federal regulators to determine its permissible powers:

A determination as to whether a particular service may legitimately be rendered or performed by a bank for its customers must be made in the light of applicable Federal or State statutory or regulatory provisions. In the case of a State-chartered bank, the laws of the State in which the bank operates, together with any interpretations thereunder rendered by appropriate bank authorities, would govern the right of the bank to provide a particular service. In the case of a national bank, a similar determination would require reference to provisions of Federal law relating to the establishment and operation of national banks, as well as to pertinent rulings or interpretations promulgated thereunder. (12 C.F.R. 225.118(c).)

Finally, the Board has argued, and has persuaded the courts to adopt, the view that the BHCA does not govern the powers of a holding company's banks. See *Cameron Financial Corp. v. Board*, 497 F.2d 841, 848 (4th Cir. 1974).

Since it cannot be seriously argued that the BHCA extends to the powers of holding company banks, the next question is whether it applies to the activities of subsidiaries of holding company banks. Though not stated in the Board's request for comment, the basis for so applying the BHCA is apparently that a bank's operating subsidiary should be regarded as an "indirect" subsidiary of its holding company and § 4(a) prohibits a holding company from acquiring "direct or

indirect ownership or control" of a company that is not a bank or that is engaged in activities not authorized by § 4(c)(8).¹

The Board reads too much into the "indirect" language of § 4(a). In the case of a national bank, an operating subsidiary may engage only in activities permitted to the parent bank, i.e., those activities permissible under the National Bank Act and related laws. It is highly unlikely that Congress in the BHCA intended to subject what is essentially a department or division of a national bank to two standards, the National Bank Act standard and the BHCA standard. In light of the clear applicability of the National Bank Act and state laws to national and state bank subsidiaries, respectively, it cannot seriously be maintained that the BHCA applies to the subsidiaries of holding company banks, unless there is persuasive legislative history addressing the subsidiary question directly. To our knowledge, there is no such legislative history in the 1956 Act or the 1970 amendments.

Indeed, the available evidence supports Chairman Burns' and Governor Partee's characterization of the Act in Congressional testimony cited above. OCC first permitted national banks to own the stock of a subsidiary in 1964 with the proviso that the subsidiary "may not perform any function which the bank could not have performed directly."² This and subsequent OCC rulings³ on operating subsidiaries created considerable controversy, since the ownership of such stock was viewed by some as prohibited by section 16 of the Glass-Steagall Act, 12 U.S.C. 24 (Seventh). Indeed, the Board publicly disagreed with OCC's ruling,⁴ and the House Banking Committee held hearings on the subject.⁵ Nevertheless, Congress never altered OCC's position through legislation, either in the major

¹Significantly, the Board has employed the lexicon of the BHCA in describing its request for comment in part as "Permissibility of Real Estate Investment for Bank Holding Companies and their Direct and Indirect Subsidiaries."

²Letter of December 22, 1964, from Comptroller James J. Saxon to Regional Comptroller J. R. Thomas, summarized in 2 Nat'l Banking Rev. 430-431 (1965) (ownership of mortgage service corporation). Cf. 1 Nat'l Banking Rev. 264 (1963).

³2 Nat'l Banking Rev. 576 (1965) (ownership of credit bureau); 3 Nat'l Banking Rev. 264 (1965) (acquisition of finance company); 4 Nat'l Banking Rev. 216-217 (1966) (organization of debt collection subsidiary). In 1966, OCC codified this position in a lengthy statement at 12 C.F.R. 7.10 and in abbreviated form in the *Comptroller's Manual for National Banks* as Ruling 7376. In 1971, 12 C.F.R. 7.10 was rescinded and replaced with 12 C.F.R. 7.7376. Like its predecessors, the latter version is essentially a construction of the National Bank Act, 12 U.S.C. 24 (Seventh). The current version appears at 12 C.F.R. 5.34. Over the years, OCC promulgated other rulings on permissible activities for operating subsidiaries. See 12 C.F.R. 7.7378 and 12 C.F.R. 7.7379.

⁴1966 Fed. Res. Bull. 1151.

⁵*Federal Reserve Rulings Regarding Loan Production Offices and Purchases of Operating Subsidiaries: Hearings before the Senate Comm. on Banking and Currency*, 90th Cong., 2d Sess. (1968).

amendments to the BHCA in 1971 or elsewhere, and the Board later reversed its own position.⁶ In more recent years, the Board has even opposed legislation to limit or a national bank from engaging directly or indirectly in any activity which the Board has determined by regulation or order to be an improper activity for bank holding companies.⁷

The inescapable conclusion is that Congress has been satisfied with the operating subsidiary concept as administered by OCC under the National Bank Act and has seen no need for additional legislation on this point when amending the BHCA in later years. As far as Congress is concerned, the operating subsidiary is, for national banks, firmly grounded in the National Bank Act, and requires no further authorization or limitation. To some extent, the 1982 amendments to the Bank Service Corporation Act, under which OCC was designated as the appropriate federal banking agency to approve national bank investments in another type of bank subsidiary, also reflect Congressional satisfaction with this approach.⁸

The Board points, however, to its 1971 statement accompanying the adoption of the predecessor of § 225.22(d), that the nonbanking restrictions of the BHCA would not be applied to subsidiaries of banks but that the matter would be reviewed from time to time. This statement is not so much a precedent that can be invoked to extend the BHCA's reach as it is an incorrect interpretation of the BHCA. As noted previously, a national bank's operating subsidiary is a creature of the National Bank Act, and it is highly questionable that the parameters of that Act should be supplemented with the standards of the BHCA without express Congressional approval. This would not be the case were the BHCA a comprehensive statute covering all banking and nonbanking subsidiaries of a holding company. But, as explained above, Congress eschewed this approach in 1956 because the only problem needing correction was the supervision of a holding company's nonbanking activities.⁹

⁶12 C.F.R. 250.141.

⁷*Competition in Banking Act of 1980: Hearing before the Senate Committee on Banking, Housing and Urban Affairs, 96th Cong., 2d Sess., 14 (1980).* ("The Comptroller of the Currency has primary responsibility for regulating the activities of national banks and that Office's judgment and expertise should not be subject to a regulatory veto of the Board.")

⁸Our policy would seem to require the Board to regard all bank service corporation subsidiaries of holding company banks as operating subsidiaries under the BHCA. Yet the Board advances no reason why bank service corporations approved under §§ 4(c) and 4(d) of the Bank Service Corporation Act (12 U.S.C. 1864(c) and (d)), apparently because such a claim would be as untenable as allowing a title or national bank's operating subsidiary to be considered a bank's subsidiary.

Of Note:

Preliminary Approvals of Charter Applications

When the Office of the Comptroller of the Currency (the Office) reviews a new bank charter, considerable weight is given to the strengths of the organizing group, their plan for operating a bank in the chosen market, the level of capitalization and the proposed ownership structure. The decision to grant or deny a charter to a new bank is based on a combination of the above factors considered unique to each individual case. Once a favorable decision is reached, the Office expects, and will require, organizing groups to establish the new bank in accordance with information presented in the original application on which the preliminary approval is based.

Within the past year, the frequency of requests to change new bank charter proposals following preliminary approval has increased. While minor changes are sometimes permitted, a significant change—one which materially alters the organizing group, operating plan, or ownership structure as presented in the original application and upon which preliminary approval was based—could result in the Office denying the change or rescinding the preliminary approval.

Such cases are usually identified by the district offices and are sent to Washington for final decision. Each decision is made on a case-by-case basis. If a change is significant, generally the applicants are informed that if they elect to proceed with the change, a new charter application must be filed. The applicants' other option is to proceed with the new bank as preliminarily approved. However, in cases where the Office concluded that the significant change had been implemented, the Office has rescinded the preliminary approval and required the group to file a new application.

The process of chartering a new bank is a major undertaking both for the organizers as well as the Office. Significant changes to this undertaking after the Office has granted preliminary approval will be scrutinized carefully and will result in the rescinding of preliminary approval if the facts in the case warrant such a decision.

⁹An appellate court recently warned the Board of the limited scope of the BHCA. *Dimension Financial Corp. v. Board*, 744 F.2d 1402, 1408, 1410 (10th Cir. 1984). ("The authority of the Board under the Act is to be exercised in a restricted area. It does not have the broad scope to work in as do many other agencies. . . . It must be recognized that the statute here concerned is of very narrow scope and the Board necessarily operates within these limitations.")

Interpretive Letters—January 15 and February 15, 1985

<i>Topic</i>	<i>Letter No</i>
Laws	
12 U.S.C. 24(7)	.323, 324, 326
12 U.S.C. 82	.324
12 U.S.C. 85	.325
12 U.S.C. 86	.325
12 U.S.C. 90	.323
12 U.S.C. 84	.320, 322, 324
Regulations	
12 C.F.R. 5.34	.326
12 C.F.R. 7.1540	.324
12 C.F.R. 7.7310	.325
12 C.F.R. 7.7380	.326
12 C.F.R. 29.	.319, 321
12 C.F.R. 32.	.320, 322, 324

319—December 20, 1984

John J. Knapp
General Counsel
U.S. Department of Housing
and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Dear Mr. Knapp:

I am writing in response to your letter of September 14, 1984, concerning the interaction between this Office's adjustable-rate mortgage (ARM) regulation, 12 C.F.R. Part 29, and the ARM regulations recently issued by the Department of Housing and Urban Development (HUD), 49 *Fed. Reg.* 23580 (June 6, 1984, effective July 30, 1984). In that letter, you note that HUD is authorized to insure ARMs under § 443 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. No. 98-181, and that a number of lenders who would like to participate in the HUD program have expressed concern over several possibly conflicting provisions of Part 29 and the HUD regulation. This Office has also received a number of inquiries concerning the two regulations, and I offer this letter to clarify the requirements imposed upon national banks who wish to participate in the HUD program.

You request that I address the following specific areas of concern:

1. What value of the interest rate index will serve as the basis for interest rate changes in HUD-insured ARM loans offered by national banks?
2. Given the special requirements and protections contained in the HUD program, must HUD lenders disclose an initial index value in the loan note in accordance with 12 C.F.R. § 29.7(e)?
3. May the hypothetical example required in § 29.7(a)(11) show an interest rate increase of 1 percentage point per year, the maximum allowed under the HUD program, in view of the requirement in § 29.7(a)(11) that the interest rate index show an increase of 1 percentage point every 6 months?

You also note that your Office is compiling an addendum to be attached to your disclosure form that will contain all additional requirements imposed by our Office and by the Federal Home Loan Bank Board upon national bank and thrift lenders, respectively, offering ARMs. You, therefore, request a summary of disclosure requirements contained in Part 29 that a national bank would need to make over and above those requirements contained in the HUD regulation.

The Index Value Upon Which Interest Rate Changes Are Based

Under 12 C.F.R. § 29.4 a national bank is required to base an interest rate change upon "the most recently available index value as of either the date a notification of an impending interest rate change is sent to a borrower, or the date that an interest rate change is implemented, whichever is earlier." The HUD regulation requires that the interest rate change be based upon "the most recent index figure available 30 days before the date of each interest rate adjustment." 49 *Fed. Reg.* 23584, 23586 (to be codified at 24 C.F.R. §§ 203.49(c), 234.79(c)). The HUD regulation further requires that at least 30 days before an adjustment to the borrower's payment occurs, the lender must disclose to the borrower the new interest rate and monthly payment, the new index value and how the payment change was calculated, and, if applicable, the application of an "index interest rate change" carried over from a previous year. 49 *Fed. Reg.* 23585, 23586 (to be codified at 24 C.F.R. §§ 203.49(g), 234.79(g)).

Thus, under the HUD program, assuming an interest rate change date of October 1, 1985, the index figure used would be the average weekly yield on U.S. securities for the week ending August 30, 1985. In order to effect a payment change on November 1, the notification of the interest rate change would have to be given to the borrower no later than October 2, thus ensuring that the borrower has the requisite 30 days notice.

As you interpret 12 C.F.R. § 29.4, a national bank participating in the HUD program outlined above would be required to use the most recently available index value as of the date that the new interest rate is implemented, *i.e.*, October 1, and would, therefore, have a maximum of only 5 business days to send an adjustment notice since a new index figure is available weekly.

As we have interpreted § 29.4 in the past, the apparent conflict created by a literal reading of that section does not, in fact, exist. See Letter by Jerome Edelstein, Attorney, Legal Advisory Services Division, of July 29, 1983. Section 29.4 is intended to have the bank describe with precision the index upon which interest rate adjustments will be based. Thus, under the HUD program outlined above, a national bank could establish its index as the weekly average yield on U.S. securities for the week ending 30 days before implementation of the interest rate change. By including such a description in the loan documents, a national bank offering HUD-insured ARMs would comply with both regulations.

Disclosure of the Initial Index Value

Your second concern centers on the requirement in 12 C.F.R. § 29.7(a) that "[a]t the date on which the initial interest rate on an adjustable rate mortgage loan is determined, the bank shall inform the borrower of the initial index value on which the initial interest rate will be based." This initial index value shall be included in the note that the borrower signs." You note that under the HUD program, the initial interest rate is often a negotiated rate that is not based on the index, and you contend that requiring disclosure of "an initial index value" will only cause confusion in the loan documents. You explain that HUD provides for a current index value to be set forth in a disclosure form that the borrower signs at the time of loan application. HUD has established this requirement to inform the borrower of the relationship between the initial interest rate, discount points, and the index value at the time the loan is applied for. You request, based on the foregoing, that the requirement contained in § 29.7(e) be waived for HUD ARM loans.

Under its original ARM regulation (46 *Fed. Reg.* 18932 (March 27, 1981)) the Office reserved the right to waive all or part of the requirements contained in Part 29 for those loan programs that contained payment caps and other devices designed to protect borrowers from payment volatility. See 12 C.F.R. § 29.9 (1983 ed.). That provision, however, was removed when the regulation was amended in 1983, and currently the Office has no such authority to waive any of the requirements contained in Part 29.

Even were we able to waive the provision in question, I am not convinced that a lender offering an ARM loan does not always, in some way, have his or her eye on the index when determining the initial interest rate on the loan. This is particularly true, I suggest, when an interest rate cap limits the amount that the interest rate may rise during the course of the loan. In my view, such a cap would discourage the lender from wandering too far from the index, for fear that a rapid rise in interest rates would result in a substantially smaller return than would otherwise be the case.

Although the HUD program offers considerable borrower protection and embodies an admirable effort to contain the potential volatility of these mortgage instruments, the requirement in question clearly remains applicable. Not only is this result mandated by the language of § 29.7(a), but I believe it also makes sense enough that the potential exposure of a national bank to substantial liability for misrepresenting the terms and consequences of ARM loans.

Sections 29.7(a) and 29.7(e) do, however, dictate specific

language to be placed in the loan note. It would be sufficient, for example, to place language in the note that characterizes the index figure as the figure that was available as of the date that the initial interest rate was determined. The exact language of this characterization is left to the individual lender. Further, it would be acceptable to place the § 29.7(e) notice on the "Adjustable Rate Allonge Amending Note," since the allonge is an integral part of the note, is given contemporaneously with the note, and is the very document that addresses the loan's adjustable rate features.

Finally, I note in reviewing your "Mortgage Letter 84-16" that the initial interest rate is determined as of the date that the borrower signs the disclosure form and the firm commitment application, and that the interest rate may rise a maximum of 1 percentage point between that date and the date of loan closing. In my opinion, the initial index value that is placed on the loan note should be the value that is supplied in the disclosure form for loans in which the agreed-upon rate does not rise. For those loans that do involve a rising post-commitment interest rate the stated initial index value should be the value that exists on the date that the final interest rate is determined.

The Hypothetical Example

The third area of concern that you outline involves the proper representation of a HUD ARM loan in the hypothetical example required by Part 29. As provided in § 29.7(a)(11), the hypothetical example must show a schedule of the dollar amounts of the installment payments (principal and interest), assuming an initial loan balance of \$10,000.00 and interest rate index increases of 1 percentage point per 6 months (2 percentage points per year) for the first 5 years of the loan and a constant interest rate index thereafter. Interest rate increases under the HUD program are limited to a 1 percentage point increase per year, and you inquire whether the hypothetical example should reflect this.

Part 29 requires that the actual terms and conditions of an ARM loan be fully enumerated under the initial disclosure provisions of § 29.7(a), including the hypothetical example contained in § 29.7(a)(11). Thus, the hypothetical example is intended to show exactly how a particular ARM loan (in this case, one offered under the HUD program) would react in a hypothetical environment of rapidly rising interest rates, as reflected in the movement of the designated index. Therefore, each hypothetical example that is supplied with a HUD-insured ARM should reflect the 1 percent annual interest rate cap, as well as the 5 percent lifetime interest rate cap that is required for each loan.

The HUD and OCC Disclosure Requirements

I recognize that there is considerable overlap between the disclosures required by HUD and by this Office, respectively, and it appears feasible to me to design a single disclosure form to satisfy both. To that end, I outline below those requirements in Part 29 with which a national bank would need to comply in addition to the HUD requirements. I also offer some comments regarding the timing of the disclosures, including the hypothetical example.

1. Additional Disclosure Requirements. The following four requirements contained in Part 29 are not found in the HUD regulations:

(A) Section 29.7(a)(3) requires that the bank provide a 10-year historical series of the interest rate index, in this case the weekly average yield on United States Treasury Securities adjusted to a constant maturity of 1 year. The series must be updated at least annually showing the values of the index on at least a semiannual basis.

(B) Section 29.7(a)(9) requires that the bank outline all fees charged by the bank or by any other person in connection with the ARM loan, including fees due at loan closing.

(C) Section 29.7(a)(10) requires an additional disclosure of prepayment, payment, and interest rate adjustment fees and a statement of when such fees will be charged and how they will be calculated.

(D) Section 29.7(b)(6) requires that the bank's periodic disclosure contain a statement, if appropriate, that a prepayment fee will be charged if the borrower chooses to prepay the loan.

2. Timing of Disclosure. Section 29.7(a) requires that the bank make its initial disclosure to the prospective borrower "on the earlier of the date on which the bank first provides written information . . . or provides a loan application form." The Office considers this timing requirement to be one of the most important features of the ARM regulation. It ensures that the borrower is both informed and has a genuine opportunity to comparison shop for the ARM product that best suits his or her needs and financial situation. Consequently, a national bank offering HUD ARMs would be required to comply with this provision.

In addition, § 29.7(b) establishes a special deadline for periodic disclosures. Consequently, a national bank offering HUD ARMs would need to give this type disclosure not later than one business day after an interest rate change is implemented, in compliance with Part 29, and at least 30 days before any payment adjustment occurs, in compliance with the HUD regu-

lation. See 49 *Fed. Reg.* 23585, 23586 (to be codified at 24 C.F.R. §§ 203.49(g), 234.79(g)).

3. The Hypothetical Example The hypothetical example required by § 29.7(a)(11) is different from that required by HUD in several respects. See 49 *Fed. Reg.* 23585, 23586 (to be codified at 24 C.F.R. §§ 203.49(f)(4), 234.79(f)(4)). The example required in Part 29 is based on a loan amount of \$10,000.00 and an initial interest rate at which the bank actually has made an ARM loan in the past 12 months. The HUD example, in contrast, is based on the size of the loan for which the application is being made and an initial interest rate that is the current market interest rate.

Nonetheless, I see no reason that our two regulations would conflict in this regard since the example required by Part 29 would be provided at the time of initial disclosure, while the HUD example would be given at the time of loan application. Moreover, in view of the fact that this Office and HUD currently are involved with other federal financial institution regulatory agencies to improve and unify ARM disclosures, I believe that continuing the provision of twin hypothetical examples is a workable interim approach.

I trust that this is responsive to your concerns.

Richard V. Fitzgerald
Chief Counsel

* * *

320—December 17, 1984

This is in response to your letter of November 5, 1984, concerning the applicability of the legal lending limit exception for a loan or extension of credit secured by a segregated deposit account, 12 U.S.C. § 84(c)(6) and 12 C.F.R. § 32.6(f), to the following proposed loan participation.

*** (The Bank) has the opportunity to purchase a \$1,049,999 participation in a \$1,550,000 loan secured by a \$1,500,000 certificate of deposit at the issuing bank. The funds have been earmarked by the issuing bank as collateral for the loan. The Bank's lending limit is \$250,000.

The issue of whether a certificate of deposit is a "deposit account" for purposes of the exception is addressed in a recent Office precedent letter (#305). The letter clarifies the position of this Office that certificates of deposit, whether negotiable or non-

negotiable quality for the exception, but only if they are in the lending bank. An other-bank certificate of deposit like that involved in the proposed participation does not qualify for the exception.

For lending limits and other supervisory purposes, e.g., reporting and full disclosure of credit information requirements, this Office has traditionally regarded the sale of loans as if they were credits originated by the purchasing bank at the time of acquisition. If the sales are bona fide, that is, sold without written or oral agreement to repurchase, they are treated as removed from the selling bank's lending limit. 12 C.F.R. § 32.107. They are then subject to the lending limits of the purchasing bank with respect to each of the original obligors on the notes or other extensions of credit. The purchasing bank, viewed by this Office as the actual extender of credit, would then qualify for the lending limits exceptions available to the selling bank. If, for example, the selling bank has made a loan fully secured by obligations of the United States pursuant to 12 U.S.C. § 84(c)(4), the exception becomes available to the purchasing bank. However, the exception set out in 12 U.S.C. § 84(c)(6) and 12 C.F.R. § 32.6(f) is not by its nature transferable from a selling bank to a purchasing bank because it applies only to the certificates of deposit of the lending bank. Although the certificates would qualify for the exception as long as the loans they secure are in the hands of the issuing bank, they lose eligibility and become other-bank certificates once transferred to another bank.

The preamble to 12 C.F.R. Part 32, 48 *Fed. Reg.* 15,844-15,849 (April 12, 1983), contains a statement rejecting a suggestion of commenters that other-bank certificates should qualify for the exception. As indicated in the preamble, this Office believes that such accounts are outside the scope of the statute, which specifically excepts loans secured by an account "in the lending bank." See 12 U.S.C. § 84(c)(6). A contrary view would raise those concerns arising from the credit risk assumed by the lending bank that the issuing bank will default on the certificate.

I trust that this letter has been responsive to your inquiry.

Respectfully,
Suzanne Sada
Senior Attorney
Legal Advisory Services Division

321—December 10, 1984

This is in response to your letter to Mr. Andrew F. Campbell of this Office, dated September 24, 1984, concerning the index requirements contained in the Comptroller's adjustable-rate mortgage (ARM) regulation, 12 C.F.R. Part 29, as they apply to a loan program currently offered by *** (Bank). Your letter has been referred to me for reply.

Specifically, the Bank is currently offering an *** (Account) in accordance with Section 103(4-a) of the New York State Banking Law and Part 80 of the Banking Department Regulations. Each Account loan is secured by a junior mortgage on a one- to four-family dwelling or cooperative unit. The Bank is using as an index for calculation of the interest rate the prime rate that is published daily in the *Wall Street Journal* (WSJ). You note that this rate reflects "the base rate on corporate loans at large U.S. money center commercial banks" in effect for that particular day, and is not under the control of any one lending institution. If more than one rate is published, the Bank computes the average of these rates and uses the average rate rounded down to the nearest quarter percent as the index.

At present these Account loans do not involve refinancing of purchase-money mortgages on the securing dwellings, transactions that would fall within the ambit of the ARM regulation. However, since the Bank plans to offer these loans for such a refinancing purpose in the future, you request written confirmation that the prime rate published in the WSJ is an acceptable index under 12 C.F.R. § 29.3. In addition, you inquire whether the Bank may utilize its own base rate on any day when this base rate is lower than the prime rate published in the WSJ or lower than the average of prime rates, if more than one is published on any particular day. You indicate that the New York State Banking Department has considered these questions and has determined that the WSJ prime rate is a permissible index, being both readily available to, and verifiable by, the borrower and beyond the Bank's control. The Banking Department also has ruled that the Bank may substitute its own base rate when that rate is lower than the WSJ published prime rate.

As you may recall, the original version of 12 C.F.R. Part 29 required rate adjustments for an ARM to be tied to one of several specified national interest rate indexes that were readily available in published sources. See 46 *Fed. Reg.* 18,932 (March 27, 1981), as amended at 47 *Fed. Reg.* 13,775 (April 1, 1982). The current regulation, published at 48 *Fed. Reg.* 9,506 (March 7, 1983), no longer specifies indexes but, rather, permits a bank to use as an index any interest rate that is

readily available to, and verifiable by, borrowers and beyond the control of the bank. 12 C.F.R. § 29.3. Since there is no question that the WSJ prime rate is both readily available and verifiable, the primary issue is whether it is beyond the control of the Bank and, therefore, permissible to use.

In conversations with Edward P. Foldessy, Credit Markets Columnist, and Fred Muller in the Statistics Department at the WSJ, an attorney in this Office learned that the newspaper surveys the daily prime rates for the 20 largest banks and publishes the range from lowest to highest. When a single rate is published it means that all 20 banks have the same prime rate. No average rate is computed or published. The 20 largest banks are determined by deposit size as compiled annually by the *American Banker*, a trade publication. Currently, the Bank is among those 20, based on information as of December 1983.

In light of the foregoing facts, I suggest that the Bank has more control over the published rate than at first meets the eye. In effect, the Bank can skew the range (on which it takes the average for its own index) by deliberately registering the lowest or the highest rate of the 20 banks on any particular day. For example, as I understand your letter and information subsequently provided to an attorney in this Office, if the WSJ published range is 11 1/2–11 3/4, the Bank would use as its index 11 1/2 (the average, 11 5/6, rounded down to the nearest quarter percent) for that day. If the Bank wanted to raise its index on a particular day, it could do so simply by registering the highest prime rate of the 20 banks surveyed, e.g., 12. To continue with the example, since the average of 11 1/2 and 12 is 11 3/4, the Bank would gain 1/4 percent for its index for that day. Likewise, the Bank could skew the range by registering the lowest prime rate of the 20 banks. Although it is improbable that the Bank would adjust its prime rate solely to affect the index to be used for ARM loan purposes, the opportunity for control of the index remains a genuine option. By that analysis, I am unable to accept the notion that the WSJ prime rate is beyond the Bank's control.

Consistent with that result, I also must conclude that the Bank cannot use its own base rate as an index, even though it may be lower than the average of the published prime rates. The historical development of the ARM regulation supports this conclusion. In the original version, when proposed and published for comment at 45 *Fed. Reg.* 64196 (September 29, 1980), the index requirement permitted the use of four specified interest rate indexes. The preamble stated that the specified indexes were nationwide ones, easily verifiable, that would facilitate the growth of a secondary market in ARMs and simplify borrower

comparisons of different ARMs packages. The proposed rule explicitly prohibited a bank from using its own interest rate (either the cost of funds, the prime mortgage rate or its current lending rate) as the index for rate adjustments, in part because of concern over a bank's ability to control the index. See 45 *Fed. Reg.* at 64201.

When the final rule was published at 46 *Fed. Reg.* 18932 (March 27, 1981), the issue of a bank using its own rates was addressed in the preamble:

The bank's own marginal cost of funds, an in-house prime rate, and short-term Treasury bill rates were suggested as appropriate short-term indexes. In response to such requests, the Office has added the 6-month Treasury bill rate to the list of authorized indexes. This index should serve as a proxy for the cost to banks of short-term funds and has the advantage of being a national rate and therefore outside of the control of any single lender. (46 *Fed. Reg.* at 18936.)

On April 1, 1982, the regulation was amended to add the weekly average yield on U.S. Treasury bills with a maturity of 6 months as a permissible interest rate index. That amendment allowed national banks to participate in the Federal National Mortgage Association's ARM plans, thus increasing the availability of a secondary market for such loans and encouraging increased lending activity, both primary purposes of the regulation. See 47 *Fed. Reg.* 13775 (April 1, 1982).

The ARM regulation issued in 1981 was intended as an interim measure to smooth the transition from a market typified by level-payment, fixed-rate mortgage loans to one with a variety of flexible mortgage instruments. It was anticipated that review of the rule would occur in 2 years, but changes in the market came more rapidly. On June 2, 1982, the Office found it necessary to propose changes to the regulation. Since the Federal Home Loan Bank Board, the National Credit Union Administration, and the Federal National Mortgage Association had permitted additional indexes, continuing to limit the number of indexes available to national banks was thought unlikely to promote nationwide uniformity or comparison-shopping by borrowers. See 47 *Fed. Reg.* 23944 (June 2, 1982).

The current rule adopted the index provision of the proposed rule, permitting the use of any interest rate that is readily available to, and verifiable by, borrowers and beyond the control of the bank. The preamble indicated that several commenters objected to the requirement that the index be beyond the bank's

control, stating that a bank must have discretion to set the interest rate to assure the profitability of its mortgage portfolio. In rejecting this argument, the Office replied:

The Office recognizes the desire of some banks to change interest rates on ARMs without reference to an external interest rate index. The Office believes, however, that the indexation requirement will serve to assure borrowers that interest rate changes on ARMs reflect credit market conditions and will thereby promote the acceptance of ARMs. The Office further believes that banks will be able to find an acceptable interest rate index among those permitted by the revised regulation. (48 *Fed. Reg.* at 9508.)

For purposes of 12 C.F.R. Part 29, the Office continues to maintain a strong policy disallowing the use of indexes over which a bank may exercise control. Accordingly, it is my opinion that the Bank may not employ the WSJ prime rate in indexing Account loans made for the refinancing of purchase-money mortgages. I note, however, that there is no prohibition against the Bank's adopting the prime rate of another large money center bank as the interest rate index for such an ARM loan. Neither is there any bar to the Bank's electing not to implement any interest rate increase.

I trust that this has been responsive to your inquiry. If you have any questions, please contact Madonna K. Starr, Attorney, Legal Advisory Services Division, at (202) 447-1880.

Jonathan L. Levin
Senior Attorney
Legal Advisory Services Division

* * *

322—December 31, 1984

This is in response to your letter of July 24, 1984, concerning a lending limit exception for irrevocable standby letters of credit as collateral for an extension of credit to a joint venture partnership. Your letter, which was addressed to former Chief Counsel Brian W. Smith, was referred to me for reply.

In your letter, you indicated that your bank has extended credit to a joint venture partnership to finance the purchase of an apartment complex in ***. The loan is for a term of 12 months, renewable annually, and is secured by two individual partners' irrevocable letters

of credit. You also stated that your bank has extended credit to a second joint venture partnership organized in a similar fashion by an individual who is the managing general partner in both joint venture projects. Since you concede that the loans to the projects involving the same managing general partner are combinable, a participation in the latter loan has been sold to a correspondent bank pursuant to 12 C.F.R. § 32.107. You are nonetheless seeking an exception to the lending limits contained in 12 C.F.R. § 84 due to the nature of the collateral, the irrevocable letters of credit issued by other local banks.

Based on the material you have submitted, I agree with your conclusion that the loans to the separate joint venture partnerships are combinable, absent the sale of the second loan. This Office has taken the position that loans to separate partnerships with common general partners must be aggregated where the separate partnerships are engaged in a common enterprise. See 12 C.F.R. § 32.5. The facts that the partnerships are engaged in similar or related real estate activities, have centralized control through the common managing general partner, and are marketed through the common managing general partner tend to support a finding of common enterprise. The partnerships are created as a financing vehicle to allow the general partners to carry on their common enterprise of holding and leasing real estate. Accordingly, the obligations of the joint venture partnerships must be aggregated for section 84 purposes.¹ Thus, you seek an exception to the lending limits.

The other bank standby letters of credit as collateral arrangement you have described does not fall within any explicit statutory lending limit exception, as you have noted. Yet, you suggest that the letters of credit, which can be drawn upon for up to 30 days after the note has matured, which are payable upon the failure of the account party/individual partner to make his annual contribution to the partnership, and which are issued by other local banks with your bank as beneficiary, reflect a type of collateral so limited in credit risk as to qualify for treatment as an exception to the lending limits.

As a general matter, the fact that particular loans may be good credits does not alter the potential risk to an institution from concentration of credit and the failure to spread credit risk among many borrowers. The exceptions to the lending limits have been interpreted by this Office in accordance with the underlying pur-

¹ For your information, see the attached copy of the November 25, 1981, letter from Charles E. Byrd, Assistant Director, Legal Advisory Services Division, which supports my conclusion that the loans to the joint venture partnerships must be combined under section 84.

poses of section 84 to maintain bank safety through requiring diversification in lending and to ensure that different borrowers have access to national bank loans. A national bank may lend to one person up to 15 percent of its unimpaired capital and surplus unsecured by collateral and an additional 10 percent of its unimpaired capital and surplus, provided the additional extension of credit is fully secured by readily marketable collateral. 12 U.S.C. § 84(a)(1) and (2).

The regulation implementing section 84, 12 C.F.R. Part 32, defines "readily marketable collateral" to include financial instruments (such as stocks, notes, bonds, and debentures traded on a national securities exchange, OTC margin stocks, commercial paper, negotiable certificates of deposit, bankers' acceptances, and shares in money market and mutual funds in which banks may perfect a security interest) which are salable under ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions on an auction or a similarly available daily bid and ask price market. 12 C.F.R. § 32.4(c). Although letters of credit expressly can be transferable, as the sample ones you submitted to us are, they do not come within the regulation's definition of readily marketable collateral.

This conclusion is supported by case law indicating that a letter of credit does not fulfill the statutory requisites of a negotiable instrument as defined in U.C.C. § 3-104(1). It is not payable to order or bearer and the existence of conditions precedent to payment, as well as the duty of the issuer to reject noncomplying documents, render it a conditional promise to pay. *Shaffer v. Brooklyn Park Garden Apts.*, 250 N.W.2d 172, 176 (Minn. 1977). See also *Consolidated Aluminum Corporation v. Bank of Virginia*, 544 F. Supp. 386 (D.Md. 1982), *aff'd*, 704 F.2d 136 (4th Cir. 1983).² Accordingly, it is my opinion that the additional 10% limitation for readily marketable collateral is not available for the letters of credit arrangement you have described. Likewise, the statutory exception for the discount of commercial or business paper, 12 U.S.C. § 84(c)(1), is unavailable for similar reasons. This exception applies only to negotiable paper given in payment for the purchase price of commodities, the sale of which may be expected to provide funds for the payment of the paper.

Because the standby letter of credit is a primary

obligation of the issuing bank that must pay upon the orderly presentation of drafts and the specified documents regardless of whether the account party has performed, it may be argued that the letter of credit as collateral fully covers the loan. In effect the bank is making a "nonrecourse" loan, where the bank's recourse is restricted to specific collateral, the other banks' letters of credit. Until 1971, such an arrangement was sufficient to exclude the loan from the borrower's lending limit. See *Comptroller's Manual for National Banks* ¶ 1175 (1963 edition) (removed from 1971 edition). That view was abandoned, in part because it encouraged banks to exclude borrowers from personal liability in situations not intended by Congress in enacting section 84. Furthermore, the fact that the issuing banks, in effect, are engaging their own credit, does not negate the credit risk assumed by your bank that the issuing banks may default on their obligations or that your bank has advanced funds whereas the issuing banks have an unfunded contingent liability. This Office has previously rejected the notion that other bank standby letters of credit taken as collateral remove a funded loan from the lending bank's limits to its borrower.

Arguably, the letters of credit arrangement is similar to a "risk only" participation by the issuing banks in the loans to the joint venture partnerships for lending limit purposes. In such a "risk only" participation, the participating bank does not advance any of its own funds but agrees to reimburse the selling bank on demand for any unpaid principal and interest, or a stated portion thereof, not forthcoming from a particular borrower on maturity, whether by acceleration, default or otherwise. The Office has found, however, that in some cases national banks lack the power to purchase "risk only" participation interests that could be characterized as guarantees of the borrower's debt. Such guarantees may be *ultra vires* for a national bank.

Consequently, in my opinion, there is no lending limit exception that can apply to the letters of credit as collateral arrangement you have described, nor can the letters of credit operate as "risk only" participations to the issuing banks. The extensions of credit to the joint ventures must, therefore, comply with the section 84 requirements. I trust this has been responsive to your inquiry. If you wish to discuss the matter further, please contact Madonna K. Starr, Attorney, Legal Advisory Services Division, at (202) 447-1880.

Rosemarie Oda
Senior Attorney
Legal Advisory Services Division

²Some cases have held that a letter of credit "partakes of the nature of a negotiable instrument" in the sense that it operates as a contract to accept bills or drafts to be drawn in the future in accordance with its terms. *Second National Bank of Toledo v. M. Samuel & Sons*, 12 F.2d 963, 966 (2d Cir. 1926) *cert. denied* 273 U.S. 720 (1926) (The credit at issue in that case was a commercial letter of credit.) See also 50 Am. Jur. 2d, Letters of Credit, and Credit Cards § 6.

323—January 8, 1985

This is in response to your telephone inquiry as to whether your bank could purchase an insurance company's surety bond to insure private deposits in your bank above the \$100,000 amount insured by the FDIC. For the reasons discussed below, the OCC legal staff would raise no objection to such an action.

It is settled in the case law that a national bank is without express or implied authority to pledge its assets to secure private deposits. Judge Learned Hand, reviewing the holdings of the United States Supreme Court on this issue, summarized the prevailing law in *FDIC v. Tremain*, 133 F.2d 827 (2d Cir. 1943):

It is indeed settled law that a national bank, unless expressly so authorized, has no power to pledge its assets as security for any deposit, and that the pledge is void. *Texas and Pacific Ry. Co. v. Pottorff*, 291 U.S. 245 . . . ; *City of Marion v. Sneed*, 291 U.S. 262; *Yonkers v. Downing*, 309 U.S. 590. . . .

As the Supreme Court explained in *Pottorff*, *supra*:

The effect of a pledge is to withdraw for the benefit of one depositor part of the fund to which all look for protection. Thereby the legitimate expectations of a great body of the depositors are defeated and confidence in the fairness of the national banking laws and administration is impaired.

The gist of the pledge of assets cases is that no depositor can be given a preference over any other depositor. All depositors must have equal access to the bank's assets; not even the United States as depositor is allowed a preference over other depositors. *Cook County National Bank v. United States*, 107 U.S. 445 (1883). See also *Davis v. Elmira Savings Bank*, 161 U.S. 275, 284 (1896) ("It cannot be doubted that one of the objects of the national bank system was to secure, in the event of insolvency, a just and equal distribution of the assets of national banks among all unsecured creditors, and to prevent such banks from creating preferences in contemplation of insolvency.")

In the situation you posit, the bank would not be pledging its assets to secure private deposits. Moreover, the purchase of surety bonds would not affect the availability of bank funds to all depositors in the event of insolvency and closing of the bank. Any payments made by the surety company would be from its own funds, not from funds of the bank. Accordingly, there is no objection by the courts, i.e., the granting of a preference to some depositors, over others, by pledge

of bank assets, is not present in the case of a separate surety bond arrangement.

The remaining question is whether a national bank's purchase of surety bond coverage to protect private deposits over \$100,000 is an incidental banking power within the scope of 12 U.S.C. § 24(7). In my opinion, a court might well conclude that it is. Accordingly, the OCC legal staff will interpose no objection should your bank decide to obtain insurance to supplement FDIC insurance. One of a national bank's express powers is to receive deposits. The proposed surety bond coverage will presumably facilitate the carrying out of this express power in the case of large deposits. Indeed, in some instances, this may be the only practicable way to obtain large deposits without paying unduly high, perhaps even unsafe and unsound, interest rates.

The only case pertinent to the surety bond question which I have been able to find is an old one, *State of Nebraska v. First National Bank*, 88 F. 947 (C.C., D. Neb. 1898). The court held that giving a bond to secure a deposit was within the power of a national bank, and the sureties on such bonds were liable. The decision is not exactly on point because it involved a public, not private, deposit, and the surety bond coverage was mandated by state law. Nevertheless, it is supportive of the proposition that a national bank could purchase surety bond coverage for private deposits over \$100,000. The decision preceded by three years the amendment of 12 U.S.C. § 90 whereby Congress made it clear that national banks could pledge their assets to secure public deposits if state law gave such authority to state-chartered banks.

I trust that this reply is responsive to your inquiry.

Richard V. Fitzgerald
Chief Counsel

* * *

324—January 9, 1985

This is in response to your letter of August 3, 1984, concerning your bank's proposed purchase of dollar-denominated notes issued to exporters by the Central Bank ***. It is contemplated that the exporters selling the notes to *** will agree to repurchase any note upon the earlier of a default in payment of the note or the final maturity date of the note. You suggest that the purchase of the notes could be considered, for purposes of 12 U.S.C. § 84, an extension of credit to the

sellers of the notes and not to the Central Bank issuers of the notes. You base this conclusion on a reading of Interpretations 32.104 and 32.103(b), and on OCC precedent letters signed by myself and by Howard Finkelstein, as discussed below.

Since you agree that the sellers of the notes under a repurchase agreement would be 12 U.S.C. § 84 borrowers from ***, I will not discuss them. In my opinion, Central Bank notes, if purchased by *** would have to be considered loans to the Central Bank.

As a justification for disregarding the Central Bank notes, for capital and surplus calculations under 12 U.S.C. § 84, you first cite Interpretation 32.104, 12 C.F.R. § 32.104, which states in pertinent part:

Where a bank purchases third-party paper subject to an agreement that the seller will repurchase the paper upon default or at the end of a stated period after default, the seller's obligation to repurchase is subject to 12 U.S.C. 84 and is measured by the total unpaid balance of the paper owned by the bank less any applicable dealer reserves. Where the seller's obligation to repurchase is limited, the seller's total loans or extensions of credit, for the purpose of 12 U.S.C. 84 are measured by the total amount of paper the seller may ultimately be obligated to repurchase.

Clearly this interpretation treats sellers of third-party paper subject to a repurchase agreement as borrowers for 12 U.S.C. § 84 purposes. However, there is no implication that the underlying obligor on the third-party paper is not a 12 U.S.C. § 84 borrower. Indeed, by its terms, Interpretation 32.104 addresses only the treatment of a seller of third-party paper, in recourse and nonrecourse situations, and does not deal with the question of how the underlying obligor on the paper should be treated.

The predecessors to Interpretation 32.104 were Interpretive Rulings 7.1110 and 7.1115. OCC precedent files concerning the rulings show that the focus was consistently on whether, and to what extent, the seller of third-party paper to a national bank should be found to be a 12 U.S.C. § 84 borrower from the bank. Generally, if the bank had no recourse against the seller of the paper, its own borrower(s) was the underlying obligor(s) on the paper. As a related matter, the OCC ruled that the establishment of a dealer's reserve fund in connection with the paper did not transform the seller of the paper into a 12 U.S.C. § 84 borrower from the purchasing bank.

My July 7, 1981 letter from which you quote dealt with Interpretive Ruling 7.1540, which in turn related to

Exception 4 to 12 U.S.C. § 84 prior to the law's amendment by the Garn-St Germain Act of 1982. That exception enabled a national bank to lend an additional 15 percent of its capital and surplus above the general 10 percent lending limit, to an endorser or a guarantor of short-term commercial or business paper. Interpretive Ruling 7.1540 included not only endorsers or guarantors appearing on the instrument themselves but also repurchase agreements embodied in separate documents. My July 7, 1981 letter took the position that since the national bank purchasing short-term commercial paper from one of its customers was looking primarily to its customer for repayment (under the repurchase agreement), Exception 4 was not available. Only if the customer-seller of third-party paper was viewed in the traditional guarantor role, and hence was secondarily liable, would the additional 15 percent be available. The letter went on to say:

Where a bank purchases third-party paper from a seller who agrees to repurchase it, such transaction represents an extension of credit to the seller of the paper by the bank which is subject to the applicable lending limit. When the transaction is viewed in this manner, as an extension of credit rather than an actual sale of third-party paper, the paper may be properly considered as collateral security for the loan. Accordingly, the obligation of the issuer on the paper need not be considered an obligation to the bank subject to the lending limits of 12 U.S.C. § 84. This result occurs because the bank is actually looking primarily to its customer for repayment of the "loan" and not to the obligation of the issuer on the paper.

The context of these remarks is important. The key point is that the third-party paper involved a number of underlying obligors, and the seller of the paper was a single customer receiving funds from the bank in exchange for the paper. In this situation, the bank could lend only 10 percent of its capital and surplus (25 percent if the customer had been determined to be only secondarily liable, with the bank looking primarily to the underlying obligors on the paper for repayment). Thus, not considering the underlying obligors on the paper to be 12 U.S.C. § 84 borrowers from the purchasing bank had no practical consequence.

The transaction you propose is far different. There is no exception to 12 U.S.C. § 84 to which *** Central Bank notes relate. They certainly are not the type of third-party paper traditionally associated with lending limit exceptions (*e.g.*, Exceptions 2, 4 and 13 of the statute prior to 1982, Exceptions 1 and 8 12 U.S.C. § 84(c)(1) and (c)(8), of the current law). Equally important, in the transaction proposed there are a number of

securities and are not securities of the paper (notes). To facilitate a single entity (here, *** Central Bank) to borrow unlimited amounts from a national bank by the simple expedient of selling its notes to various persons, who in turn sell them to the national bank under a repurchase agreement, is inconsistent with the purposes and intent of 12 U.S.C. § 84. Certainly if one of the exporters refuses to honor its repurchase obligation upon default or maturity, the bank will look to the *** Central Bank to pay on its notes. If the sellers of the notes were not promising to repurchase, the notes would clearly be considered loans in the bank's portfolio. The presence of a guarantee or a repurchase agreement does not alter this essential fact.

Finally, it is pertinent to observe that the language of 12 U.S.C. § 84 as it existed at the time of my 1981 letter defined "obligations" to include "the direct liability of the maker . . . of paper . . . sold to such association and the liability of the indorser . . . or guarantor who obtains a loan from or discounts paper with or sells paper under his guaranty to such association . . ." (emphasis added). While my letter was interpreting Exception 4, it appears that the main body of the statute on its face required counting both the maker and the seller of notes as 12 U.S.C. § 84 borrowers from the bank which purchased the notes. We are researching this matter to determine if my statement in the July 7, 1981, letter that the issuer of the paper is not an obligor for purposes of 12 U.S.C. § 84 is correct.

As an alternative rationale, you suggest that the Central Bank notes could be considered "securities" within the meaning of Interpretation 32.103(b), 12 C.F.R. § 32.103(b). If so, then their purchase by *** from various exporters under repurchase agreements would be treated as a loan to the exporters but not to the underlying obligor.

The predecessor to Interpretation 32.103 was Interpretive Ruling 7-1131, which stated that purchases and sales of securities under repurchase agreements were not considered to be borrowings under 12 U.S.C. § 82 or loans under 12 U.S.C. § 84. However, the OCC consistently interpreted "securities" to be limited to domestic federal, state and local government securities and excluded other types of securities from its coverage. See, e.g., letter of C.F. Byrd, [1978-79 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶95,026.

As suggested by Mr. Finkelstein's June 27, 1983 letter, in my view that letter does not alter the OCC's traditional interpretation of "securities" for purposes of Interpretive Ruling 7-1131 and its predecessor Interpretation 32.103(b). My 1981 letter that I explicitly indicates in a

repurchase agreement situation that the underlying obligor on the loans or securities being bought is not treated as an obligor under 12 U.S.C. § 24(7) or 12 U.S.C. § 84. As you observe, Mr. Finkelstein's letter did not address the issue of whether the purchasing bank has made an extension of credit to the underlying obligor in such circumstances.

In sum, *** Central Bank notes will be loans to *** for 12 U.S.C. § 84 purposes if they are purchased by ***. This result is not changed by the sellers' agreements to repurchase them from ***.

I trust that this reply is responsive to your inquiry.

Charles F. Byrd
Assistant Director
Legal Advisory Services Division

* * *

325—January 22, 1985

Your letters of March 5, and July 2, 1984, request an opinion on the following question: Assuming that a New York-based lender may make loans to out-of-state borrowers and provide in the loan document for an interest rate permitted under the laws of the borrower's state, may a national bank located in New York, pursuant to 12 U.S.C. § 85, make loans to out-of-state borrowers at an interest rate permitted under the laws of the borrower's state. You believe that the question should be answered in the affirmative. For the reasons which follow, I agree with your conclusion.

Under a program developed by your client, a national bank located in New York, the bank makes closed-end loans to consumers residing in many different states in connection with the purchase of motor vehicles in which the bank takes a security interest. It is contemplated that the contract forms for the loan will provide that the interest rate and anything material to its determination will be governed by the laws of the borrower's home state or the laws of New York, whichever provides for a higher interest rate with regard to that type of loan.

Discussion

As you have recognized, 12 U.S.C. § 85 and 12 C.F.R. § 7.7310 govern the rate of interest that national banks may charge on loans. 12 U.S.C. § 85 authorizes a national bank to charge interest "on any loan" at

the rate allowed by the laws of the State where the bank is located . . . except that where by the laws of any State a different rate is limited for banks organized under State laws, the rate so limited shall be allowed for associations organized or existing in any such State under this chapter.¹

The courts have interpreted the preceding language of section 85 to permit a national bank to charge the highest interest rate allowed to other lenders by the laws of the state where it is located. *E.g.*, *Tiffany v. National Bank of Missouri*, 85 U.S. 409 (1874). Similarly, the courts have found that section 85 incorporates state usury laws to determine the interest rate allowed by the state where the national bank is located. *See Daggs v. Phoenix National Bank*, 177 U.S. 549 (1900). These interpretations are reflected in Interpretive Ruling 7.7310(a) as follows:

A national bank may charge interest at the maximum rate permitted by State law to any competing State-chartered or licensed lending institution. If State law permits a higher interest rate on a specified class of loans, a national bank making such loans at such higher rate is subject only to the provisions of State law relating to such class of loans that are material to the determination of the interest rate.

The permission given to national banks to charge interest at the rate allowed by the laws of the state where the bank is located is designed to place national banks on an equal footing with the most favored state-chartered lenders in that state. *First National Bank in Mena v. Nowlin*, 509 F.2d 872 (8th Cir. 1975); *Commissioner of Small Loans v. First National Bank of Maryland*, 300 A.2d 685 (Md. 1973).

For the purposes of this letter, I will adopt your conclusion that a New York court would validate a contract between a state-chartered New York lender and an out-of-state borrower which specified that the interest rate charged would be that permissible under the laws of the borrower's state. According to your correspondence, the relevant characteristics of the loan at issue are as follows:

- (a) the loan contract would specify that the law of the borrower's state governs the interest rate being charged;
- (b) the loan contract would be signed by the borrower in his or her home state;
- (c) the loan would be conditionally pre-approved by telephone by the lender in New York;
- (d) the

loan would be made for the purchase of goods by the borrower in the borrower's home state and would be secured by such goods and (e) loan payments would be made by mail to the lender in New York.

A federal district court has concluded that "New York law is in accord with the general rule that a transaction may not be attacked as usurious if it is valid under the law of any jurisdiction having appropriate contacts with it." *Crylon Steel Co. v. Globus*, 185 F. Supp. 757, 759 (S.D.N.Y. 1960). In addition, the Second Circuit has stated that New York courts "seem to follow a special rule with regard to usury, applying the law of any state connected with the transaction which will validate it to give effect to the parties' apparent intention to enter a lawful contract." *Speare v. Consolidated Assets Corp.*, 367 F.2d 208, 211 (2d Cir. 1966). Moreover, the Restatement (Second) of Conflicts § 203 (1971), permits a contract to be sustained against the charge of usury if it provides for a rate of interest permitted in a state to which the contract has a substantial relationship and is not "greatly" in excess of the rate permitted by the other state's usury law.

Section 85, the federal usury statute, authorizes national banks to charge interest at the rate "allowed by" the laws of the state where the bank is located. The term "allowed by" the laws of the state does not refer only to state statutes which establish specific numerical limits for state lenders. *First National Bank in Mena v. Nowlin*, 509 F.2d at 876 ("determination of the 'rate allowed by the laws of the State' can only be accomplished with reference to state court interpretations of the state's own constitution and statutes"). Instead, the intent of the provision, and section 85, is "to adopt the state law, and permit to national banks what the state law allows . . . to the banks organized by it." *Daggs v. Phoenix National Bank*, 177 U.S. at 555. This view of section 85 is reflected in I.R. 7.7310(a), which refers national banks to the maximum rate "permitted by" the state law where the bank is located.² The United States Supreme Court has interpreted the "most favored lender" doctrine to allow national banks both to "borrow" rates authorized to lenders under the laws of their home state and to "export" these rates to borrowers in other states, regardless of the conflicts of law rules of either the banks' or the borrowers' home state. *Marquette National Bank of Minneapolis v. First of Omaha Service Corp.*, 439 U.S. 299 (1978) ("*Marquette*"). Thus, in *Marquette*, the Supreme Court held that a national

¹It should be noted that section 85 also permits national banks to charge an interest rate of one percent above the discount rate on ninety-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve District where the bank is located.

²A national bank is located either in the place designated on its organizational certificate or in the places in which it has established authorized branches. *Marquette National Bank of Minneapolis v. First of Omaha Service Corp.*, 439 U.S. 299, 308 n.7 (1978).

bank located in Nebraska could charge credit card customers who were residents of Minnesota the rate allowed to credit card lenders by the law of Nebraska despite the existence of a Minnesota statute specifically providing that credit card loans to Minnesota borrowers could not exceed the lower rate authorized by Minnesota. In general, therefore, the statutory objective of section 85 is to prevent possible state discrimination against national banks by allowing a national bank, when making a particular loan, to charge an interest rate equal to the maximum rate allowable by the law of the bank's home state to any lender for that type of loan. See, e.g., *Tiffany v. National Bank of Missouri*, 85 U.S. at 412–13 (“The only mode of guarding against [state discrimination] was . . . to allow to National associations the rate allowed by the State to natural persons generally, and a higher rate, if State banks . . . were authorized to charge a higher rate. . . .”); *Daggs v. Phoenix National Bank*, 177 U.S. at 555.

It would be inconsistent, in light of these opinions, to contend that section 85 adopts only a state's statute laws rather than the entire law of the state, existing in state statutes and case law. 45 Am. Jur. 2d *Interest and Usury* § 16 (1969), but cf. *Evans v. National Bank of Savannah*, 251 U.S. 108 (1919).³ Thus, where the loan contract specifies that the usury laws of the borrower's state are to apply, and the law of the bank's home state allows it for state-chartered lenders, then section 85 likewise permits the national bank to charge the rate of the borrower's state. In order to prevent state discrimination against national banks, national banks are permitted to charge the interest rate permitted by the borrower's state so long as competing state banks are permitted to do so; “equality is carefully secured with local banks.” *Daggs*, 177 U.S. at 555. This is consistent with the Supreme Court's recognition that national bank contracts “are governed and construed by state laws,” unless the state law interferes with federal legislation or frustrates the purpose of federal legislation. *McClellan v. Chipman*, 164 U.S. 347, 357 (1896); *Davis v. Elmira Savings Bank*, 161 U.S. 275, 283 (1896).

The Ninth Circuit has remarked that section 85 expresses a congressional intent that “the competitive opportunities of a national bank operating in a certain state should not be impeded by congressional limitations on interest charges which are more restrictive than state limitations imposed upon the state's banks.”

Hiatt v. San Francisco National Bank, 361 F.2d 504, 506–07 (9th Cir.), cert. denied, 385 U.S. 948 (1966) reh. denied, 385 U.S. 1021 (1967). In *Hiatt*, the California legislature had failed to fix an interest rate limitation for state- or federally chartered banks. The court concluded that no limit applied “except such as may be established by agreement between the banks of the two states and those who borrow from them.” *Id.* at 507. This ruling supports the view that, under section 85, one should look to the law of the state where the lending bank is located, and if the state's law permits, rely on the interest rate agreed to by the parties,⁴ notwithstanding that the parties may choose to rely upon the usury laws of the borrower's state.

II.

In your correspondence you submit that a national bank located in a particular state may, under section 85, borrow interest rates drawn from statutes setting numerical rates as well as from a state's general jurisprudence, including its conflict of law rules. In this regard, you contend that the national bank will be allowed to achieve competitive equality with a state bank which chooses to rely on a contractual choice of law provision valid under its home state's choice of law rule.

Section 85 limits national banks to the maximum rate allowed “by the laws of the State . . . where the bank is located.” The “laws” of the jurisdiction where the bank is located include not only statutory laws governing usury, but also “common law, conflict of law rules as to which usury statute applies.” Shanks, *supra*, at 489–90; see 45 Am. Jur. 2d *supra* § 16. You argue that under New York conflict of law rules, a New York lender may charge interest at the rate allowed by the borrower's home state, assuming that the transaction has the requisite contacts with the borrower's state. As I previously mentioned, I assume for the purposes of this opinion that you are correct in your interpretation of New York law.

The question of usury in the context you present does raise conflict of law issues. *National Surety Corp. v. Inland Properties, Inc.*, 286 F. Suppl. 173, 187 (E.D. Ark. 1968). New York's conflict of law rule is as much the law of New York as its statutory usury laws, under section 85, a “national bank is as free to take advantage of [New York's conflict of law rule] as is any other lender.” Shanks, *supra*, at 490, see 286 F. Supp. at 173. In the *National Surety* case, the federal district

³The Supreme Court did not directly address the conflict question posed by section 85, but it has been observed that varying state laws “must be applied equally to national banks.” *Appellate to National Banks*, 87 Banking L.J. 1063 (1911). Moreover, the Supreme Court stated “regard for the uniformity of law is one of the general purposes of the National Bank Act.” *McClellan v. Chipman*, 164 U.S. 347, 357 (1896).

⁴Although most states set a legal rate of interest which prevails when the contracting parties are silent, many also allow a higher contract rate to which the parties may agree. J. White, *Banking Law* 128 (1976).

court, applying Arkansas law, upheld the legality of a loan contract otherwise usurious under Arkansas law because the parties to the contract “expressly stipulated that their rights and obligations . . . would be governed by New York law.” *Id.* at 189. In a contract which may be governed by competing usury provisions of two states, parties have a right to contract as to governing law “so long as the chosen body of law bears a reasonable relationship to the contract,” *id.* at 190, or has a “normal relation to the transaction.” *Seeman v. Philadelphia Warehouse Co.*, 274 U.S. 403, 407–08 (1927). In other words, a provision in a contract for the payment of interest will be held valid if it is permitted by the law of the place of contracting, or of the place of performance, “or any other place with which the contract has any substantial connection.” *Fahs v. Martin*, 224 F.2d 387, 397 (5th Cir. 1955).

A qualification of this rule is that the parties must act in “good faith.” *Seeman v. Philadelphia Warehouse Co.*, 274 U.S. at 408. As the Court explained,

The effect of the qualification is merely to prevent the evasion or avoidance at will of the usury law otherwise applicable, by the parties entering into the contract or stipulating for its performance at a place which has no normal relation to the transaction and to whose law they would not otherwise be subject.

Under *Tiffany*, national banks are accorded “at least equal advantages” in competition with state banks. This being the case, it is reasonable for national banks to adopt conflict of law rules of the jurisdiction where the bank is located, as well as the substantive usury law, to determine the applicable rate. Shanks, *supra*, at 491; see 509 F.2d at 876; *contra Morosani v. First National Bank of Atlanta*, 539 F. Supp. 1171 (N.D. Ga. 1982) (dictum), *Rev’d on other grounds*, 703 F.2d 1220 (11th Cir. 1983).⁵ If a state bank in New York may take advantage of the usury law of South Dakota, for example—whenever the conflicts rules of New York provide that the statutory usury limit of South Dakota will apply—then, to be competitive, the national bank located in New York should be permitted to accomplish the same result.

⁵But cf. *Meadow Brook National Bank v. Recile*, 302 F. Supp. 62, 75 (E.D. La. 1969). In *Meadow Brook*, the court stated flatly that section 85 applies only to loans made in the state where the bank is located, it does not apply to the interest rate “charged by a national bank which is located in one state and makes a loan in another.” The Supreme Court’s decision in *Marquette*—which applied the Nebraska usury law to a loan to a Minnesota borrower—has rendered untenable the conclusion in *Meadow Brook*. *FDIC v. Lattimore*, 656 F.2d 139, 147 n.14 (5th Cir. 1981). The principal defect with the *Meadow Brook* decision was its failure to consider whether section 85 incorporated New York’s conflict law as well as its substantive usury limit. Shanks, *supra*, at 492 n.14.

A similar result is indicated in dicta in three Circuit Court decisions. In *Fisher v. First National Bank of Chicago*, 538 F.2d 1284 (7th Cir. 1976), *cert. denied*, 429 U.S. 1062 (1977), the court stated that a national bank located in Illinois could charge credit card borrowers who live in Iowa rates permitted under Iowa law if such rates were higher than those permitted under Illinois law. 538 F.2d at 1291. Similarly, the Eighth Circuit has also stated that a national bank located in Nebraska could charge Iowa borrowers rates permitted under Iowa law. *Fisher v. First National Bank of Omaha*, 548 F.2d 255, 258 (8th Cir. 1977). See also *FDIC v. Lattimore Land Corp.*, 656 F.2d 139, 150 n.18 (5th Cir. 1981).

This position is also consistent with an earlier opinion of this Office. In a letter from Donald A. Melbye to Rep. Ed Bethune, dated August 17, 1979, reprinted at Fed. Banking L. Rep. (CCH) ¶ 85,191, Mr. Melbye explained that if, under conflict of law rules, a transaction would be governed by the law of the borrower’s state, and that state permits a higher rate than the national bank’s state, the national bank may charge the higher rate permitted in the borrower’s state. The letter concluded that because state usury ceilings are intended to protect a state’s own citizens, there appears to be no clear policy reason why one state’s usury statute should apply to a bank loan which relies upon the interest rate permitted by the laws of another state.

III.

As noted, I.R. 7.7310(a) states that if state law permits a higher interest rate on a specified class of loans, a national bank making such loans at such higher rate is subject “to the provisions of State law relating to such class of loans that are material to the determination of the interest rate.” Therefore, if a New York-based national bank loans funds out-of-state at the interest rate permitted by the borrower’s state, then the bank becomes subject to those provisions of the usury laws of the borrower’s state which are “material to the determination of the interest rate.”

The language at issue states the manner in which a state’s usury laws are interpreted to determine the maximum rate of interest which may be charged on a particular loan by a state’s most favored lender, and thus, by a national bank which borrows such an interest rate. Provisions of state law which set forth the characteristics—such as size, maturity and classes of borrowers—of a category of loans are material to the determination of which interest rate governs a particular loan. If state law allows an interest rate of 20 percent to be charged on “business loans” and 18 percent for “consumer loans,” the provisions of state law which define such loan classifications effectively

jurisdiction, which interest rate applies to a particular loan and is therefore material to the determination of that interest rate. Similarly, state laws which establish the manner in which the numerical rate of interest is determined also apply to national banks. See, e.g., *American Timber and Trading Co. v. First National Bank of Oregon*, 511 F.2d 980 (9th Cir. 1974), cert. denied, 421 U.S. 921 (1975).

Conclusion

I agree with your conclusion that national banks may adopt the interest rate permitted by the borrower's state, provided that: 1) state-chartered lenders located in the home state of the national bank must be permitted—under their own state law—to import the interest rate allowed by the borrower's state; and 2) parties have the right to contract as to which relevant state usury statute is to govern, so long as the loan contract has a reasonable relationship to the state whose usury laws are chosen. The first determination, concerning state law, should be supported by advice of the bank's counsel because of the severe penalties which apply to violations of the federal usury laws. See 12 U.S.C. § 86.

I trust that this has been responsive to your request.

Peter Liebesman
Assistant Director
Legal Advisory Services Division

* * *

326—January 17, 1985

This letter is in response to the Bank's notification pursuant to 12 C.F.R. § 5.34 regarding activities proposed to be engaged in by *** a discount brokerage firm which this Office previously authorized (on September 20, 1982) the Bank to acquire as a wholly owned operating subsidiary. This letter constitutes approval for *** as discussed below, to engage in certain of those activities. As to the proposed "sweep" arrangement, this Office has no objection in principle to such an arrangement and our earlier approval of the Bank's acquisition of *** may be considered to authorize "sweep" activity as part of the business of purchasing and selling securities on the order and for the account of customers. However, as detailed below, we do not have enough information to rule on the legality of a narrower "sweep" proposal at this time.

Notwithstanding the foregoing, *** may begin to

offer the following activities, provided that they conform to the restrictions contained in this letter:

1. Dealing in General Obligation Municipal Bonds and U.S. Government Obligations

An operating subsidiary may engage in any activity permitted to be engaged in by a national bank. 12 C.F.R. § 5.34. Since national banks may deal in or underwrite obligations of the U.S. government or general obligations of any state or political subdivision thereof, *** is also permitted to engage in such activities.

2. Execution of Orders for Exchange-Traded Options

You state that *** intends, solely upon the order and for the account of customers, to buy and sell exchange-traded options. Only customers that meet specific net worth requirements are to be permitted to engage in options transactions. The proposed activity would appear to be permissible for national banks and, therefore, their operating subsidiaries as incidental to the express power to purchase and sell securities solely upon the order and for the account of customers (12 U.S.C. § 24(Seventh)) because such activity is convenient and useful in connection with *** discount brokerage business. While we do not hereby take any position with respect to the Bank's opinion that the term "securities" for purposes of 12 U.S.C. § 24(Seventh) includes "options," should securities be so defined, the purchase and sale of options upon the order and for the account of customers would be expressly authorized by 12 U.S.C. § 24(Seventh).

3. Making Margin Loans to Customers

It is expressly within the power of a national bank and, therefore, its operating subsidiary to make loans to customers. 12 U.S.C. § 24(Seventh). You have indicated that, in making margin loans, *** will not make such loans at offices that are not also branches of the Bank. All non-branch offices are to be limited to the performance of tasks associated with loan origination within parameters analogous to those authorized by 12 C.F.R. § 7.7380. Subject to those restrictions, and assuming compliance with all applicable laws and regulations, *** may engage in the proposed margin lending activity.

4. Execution of Orders for Coins and Bullion

You have stated that *** intends to execute orders to buy and sell coins and bullion upon the order and for the account of customers under the authority of 12 U.S.C. § 24(Seventh). *** may participate in the buying and selling of bullion provided that *** adheres to

Banking Circular No. 58 (rev. 1981). With regard to coins, authorization is limited to buying and selling coins to the extent that they constitute a medium of exchange, as opposed to rare coins.

5. "Sweep" Arrangement.

You have also stated that *** intends to provide a "sweep" arrangement, whereby *** would, upon receiving instructions from the customer, invest amounts received from the sale of securities in a money market fund and also withdraw from that fund amounts needed to pay for the purchase of securities by the customer. It is your opinion that such an arrangement would not violate the Glass-Steagall Act because *** would be purchasing and selling fund shares only upon the order and for the account of its customers.

If, pursuant to any such arrangement, *** will be purchasing and selling securities solely upon the order, and for the account of, its customers within the meaning of 12 U.S.C. § 24(Seventh), that activity is within the scope of our September 20, 1982 approval of the Bank's acquisition of ***. Accordingly, *** would have the authority to engage in such a sweep program without further notification to this Office, pursuant to 12 C.F.R. § 5.34, but only if *** first determines that its program is consistent with all applicable law, including the Glass-Steagall Act.

Please be advised, however, that the existence of certain facts and circumstances could lead to a conclusion that the Bank has become impermissibly involved in the distribution of securities to the public and is, therefore, acting as an underwriter in violation of the Glass-Steagall Act. Should you desire that this Office review the legality of a particular "sweep" arrangement, we would need additional information. In general, we would need to know the factual details of the proposed arrangement, including operational safeguards, allocation of fees, and distribution arrangements. In this regard, you should provide all necessary documents, including any filings made pursuant to federal and state securities laws, to support your statements. Also, please provide a detailed legal opinion covering all relevant questions under the national banking laws. As you know, all facts and circumstances must be carefully weighed in light of existing law and regulation and a full explanation of all aspects of your proposal is necessary should you seek our review.

Michael A. Mancusi
Senior Deputy Comptroller
for National Operations

* * *

Mergers—January 1 to March 31, 1985

I. Mergers consummated involving two or more operating banks.

	Page		Page
January 1, 1985		January 1, 1985	
American National Bank of Jacksonville, Jacksonville, Fla		Norwest Bank Omaha, N A , Omaha, Neb	
American National Bank of Alachua County, Gainesville, Fla		Norwest Bank Omaha South, N A , Omaha, Neb	
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Bank of New England-Franklin County, National Association, Greenfield, Mass		Third National Bank in Nashville, Nashville, Tenn	
Bank of New England-Ware, Ware, Mass.		First National Bank of Rutherford County, Smyrna, Tenn	
Bank of New England-Berkshire County, National Association, Williamstown, Mass		Merger	82
Bank of New England-Hampshire County, National Association, Northampton, Mass		January 1, 1985.	
Merger	75	Washington County National Savings Bank of Williamsport, Williamsport, Md	
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Bank of New England-West, National Association, Springfield, Mass		Merger	82
Bank of New England-Franklin County, National Association, Greenfield, Mass.		January 4, 1985	
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January 1, 1985:		Two Branches of The National Bank and Trust Company of Norwich, Norwich, N Y	
Commerce Bank of Excelsior Springs, Excelsior Springs, Mo		Purchase	83
Commerce Bank of Clay County, N A., Kansas City, Mo.		January 7, 1985	
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January 1, 1985:		The Citizens National Bank of New Castle, New Castle, Pa	
Commerce Bank of Festus, Festus, Mo.		Merger	84
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Commerce Bank of House Springs, House Springs, Mo.		MBank San Felipe, National Association, Houston, Tex	
Merger	76	Capital Bank West Loop, National Association, Houston, Tex.	
January 1, 1985:		Consolidation	85
Commerce Bank of St. Charles, N A , St. Charles, Mo		January 14, 1985	
Commerce Bank of Wentzville, Wentzville, Mo		First National Bank of Florida, Tampa, Fla	
Merger	76	Bank of Clearwater, Clearwater, Fla	
January 1, 1985		The Second National Bank of Tampa, Tampa, Fla	
Commerce Bank of Tower Grove, Tower Grove, Mo		Merger	85
Commerce Bank of St. Louis, N A , St. Louis, Mo.		January 24, 1985	
Merger	77	The First National Bank in Marlow, Marlow, Okla	
January 1, 1985:		The First National Bank in Marlow, Marlow, Okla	
First National Bank of Brunswick, Brunswick, Ga.		Purchase	86
The First National Bank of Wayne County, Jesup, Ga.		January 26, 1985:	
Merger	77	Trust Company of Augusta, National Association, Augusta, Ga	
January 1, 1985		First National Bank of Thomson, Thomson, Ga	
First National Bank Northwest Ohio, Bryan, Ohio		Merger	87
One Branch of The Dime Bank of Northwest Ohio, Continental, Ohio		January 28, 1985	
Purchase	77	First Interstate Bank of Washington, National Association, Seattle, Wash	
January 1, 1985		Olympic Bank, Everett, Wash	
First National Bank in Pierre, Pierre, S. Dak		Merger	87
The Frontier Bank, Murdo, S. Dak		January 30, 1985	
Merger	78	First National Bank in Pratt, Pratt, Kans	
January 1, 1985		Coats State Bank, Coats, Kans	
The First National Bank of Rome, Rome, Ga		Merger	88
The Rockmart Bank, Rockmart, Ga		February 1, 1985	
Merger	79	The First National Bank of Farmville, Farmville, Va	
January 1, 1985		Bank of Amelia, Amelia, Va	
Indian Head National Bank of Keene, Keene, N H		Merger	89
The Ashuelot National Bank of Keene, Keene, N H		February 1, 1985	
Merger	80	First National Bank of Florida, Tampa, Fla	
January 1, 1985.		First Gulf Beach Bank and Trust Co., St. Petersburg, Fla	
Michigan National Bank-Valley, Saginaw Township, Mich		First Bank & Trust Company, Belleair Bluffs, Fla	
Michigan National Bank-Midland, Midland, Mich		Merger	90
Merger	81	February 1, 1985	
January 1, 1985		Mercantile Bank of Northwest County, N A , St. Joseph, Mo	
NCNB National Bank of Florida, Tampa, Fla		One Branch of Mercantile Bank of South County, N A , St. Louis County, Mo	
NCNB National Bank of Florida, Jacksonville, Fla		Purchase	91
Merger	81		

February 1, 1985			
South Bank National Bank, Miami, Fla.			
The Citizens Savings Bank, Tampa, Fla.			
Merger	92		
February 11, 1985			
The Citizens Bank and Trust Company, National Association, Baltimore, Md.			
Northwest Bank, National Bank, Windsor Locks, Conn.			
Merger	93		
February 14, 1985			
First National Bank, Eads, Eads, Colo.			
NCNBANK of Iowa County, National Association, Eads, Colo.			
Purchase	94		
February 16, 1985			
Dominion Bank of Richmond, National Association, Richmond, Va.			
Dominion Bank of Fredericksburg, National Association, Fredericksburg, Va.			
Merger	95		
February 16, 1985			
Urban National Bank, Franklin Lakes, N.J.			
One Branch of United Jersey Bank, Hackensack, N.J.			
Purchase	95		
February 22, 1985			
Barnett Bank of South Florida, National Association, Miami, Fla.			
Florida Coast Bank, Pompano Beach, Fla.			
Purchase	96		
February 22, 1985			
Barnett Banks Trust Company, National Association, Jacksonville, Fla.			
Florida Coast Bank, Pompano Beach, Fla.			
Consolidation	96		
February 22, 1985			
NCNB National Bank of Florida, Tampa, Fla.			
NCNB National Bank of Florida, Tallahassee, Fla.			
Merger	97		
February 25, 1985			
Central Indiana Bank, N.A., Fairland, Ind.			
The State Bank of Waldron, Waldron, Ind.			
Shelby Service Bank, National Association, Fairland, Ind.			
Merger	97		
March 11, 1985			
Norstar Bank of the Hudson Valley, National Association, Newburgh, N.Y.			
Two Branches of Manufacturers Hanover Trust Company, New York, N.Y.			
Purchase		98	
March 11, 1985			
Western Community Bank, National Association, Tacoma, Wash.			
One Branch of North Pacific Bank, Tacoma, Wash.			
Purchase		99	
March 15, 1985			
The First National Bank of Dwight, Dwight, Ill.			
The Taylor State Bank, Emington, Ill.			
Purchase		100	
March 18, 1985			
The Boatmen's National Bank of Springfield, Springfield, Mo.			
CharterBank Springfield, N.A., Springfield, Mo.			
Merger		101	
March 18, 1985			
The Boatmen's National Bank of St. Louis, St. Louis, Mo.			
CharterBank St. Louis, N.A., St. Louis, Mo.			
Merger		101	
March 22, 1985			
NCNB National Bank of Florida, Tampa, Fla.			
NCNB National Bank of Florida, Cross City, Fla.			
NCNB National Bank of Florida, Gainesville, Fla.			
NCNB National Bank of Florida, Live Oak, Fla.			
Merger		102	
March 29, 1985			
NBD Northwest Bank, National Association, Traverse City, Mich.			
NBD Northwest Bank, Kalkaska, Mich.			
Merger		102	
March 30, 1985			
Williamsburg First National Bank, Kingstree, S.C.			
One Branch of The Citizens and Southern National Bank of S.C., Charleston, S.C.			
Purchase		102	

II. Mergers consummated involving a single operating bank.

	Page		Page
January 1, 1985		January 31, 1985	
Auburn National Bank of Auburn, Auburn, Ala		Edgewater National Bank, Englewood Cliffs, N.J.	
Auburn National Interim Bank, Auburn, Ala		Edgewater Interim National Bank, Englewood Cliffs, N.J.	
Merger	104	Merger	107
January 1, 1985		January 31, 1985	
The Factory Point National Bank of Manchester Center, Vermont, Manchester Center, Vt		First National Bank in Marion, Marion, Ind	
New Factory Point Bank, N.A., Manchester Center, Vt		Grant National Bank, Marion, Ind	
Merger	105	Merger	108
January 1, 1985		January 31, 1985	
First National Bank, Reidsville, N.C.		National Bank of Commerce, Washington, D.C.	
FNB National Bank, Reidsville, N.C.		Commerce Bank, N.A., Washington, D.C.	
Consolidation	105	Merger	108
January 1, 1985		January 31, 1985	
Garrett National Bank in Oakland, Oakland, Md		Van Wert National Bank, Van Wert, Ohio	
Garrett National Bank, Oakland, Md		Van Wert Interim National Bank, Van Wert, Ohio	
Merger	105	Merger	108
January 1, 1985		February 1, 1985	
The Ronceverte National Bank, Fairlea, W. Va		The Farmers National Bank of Opelika, Opelika, Ala	
Ronceverte Interim National Bank, Fairlea, W. Va		Farmers National Interim Bank, Opelika, Ala	
Merger	105	Merger	108
January 2, 1985		February 1, 1985	
Camden National Bank, Camden, Me		First National Bank of Okaloosa County, Ft. Walton Beach, Fla	
Camden Interim National Bank, Camden, Me.		New First National Bank of Okaloosa County, Ft. Walton Beach, Fla	
Merger	106	Consolidation	109
January 2, 1985		February 1, 1985	
The First National Bank of Spencer, Spencer, W. Va		The Ocean National Bank of Kennebunk, Kennebunk, Me	
West Central National Bank, Spencer, W. Va		New Ocean National Bank, Kennebunk, Me	
Merger	106	Merger	109
January 2, 1985		March 1, 1985	
Stonewall National Bank, Weston, W. Va		Empire National Bank of Clarksburg, Clarksburg, W. Va	
Stonewall Jackson National Bank, Weston, W. Va		ENB Interim National Bank, Clarksburg, W. Va	
Merger	106	Merger	109
January 2, 1985		March 1, 1985	
Suffolk County National Bank of Riverhead, Riverhead, N.Y.		National Bank of Commerce of DeRidder, DeRidder, La	
Suffolk Interim National Bank, Riverhead, N.Y.		DeRidder National Bank, DeRidder, La	
Merger	106	Merger	109
January 8, 1985		March 8, 1985	
The Nanticoke National Bank, Nanticoke, Pa		National State Bank, Elizabeth, N.J., Elizabeth, N.J.	
NNB National Bank, Nanticoke, Pa.		Constellation Bank, National Association, Elizabeth, N.J.	
Merger	107	Merger	110
January 10, 1985		March 18, 1985	
Dixon National Bank, Dixon, Ill		Citizens National Bank, Crockett, Tex	
DNB Bank, National Association, Dixon, Ill		New Citizens National Bank, Crockett, Tex	
Merger	107	Consolidation	110
January 19, 1985		March 31, 1985	
The First-Knox National Bank of Mt. Vernon, Mt. Vernon, Ohio		National Bank of Petersburg, Petersburg, Ill	
FK Interim, National Association, Mt. Vernon, Ohio		NBP National Bank, Petersburg, Ill	
Merger	107	Merger	110

I. Mergers consummated involving two or more operating banks.

AMERICAN NATIONAL BANK OF JACKSONVILLE,
Jacksonville, Fla., and American National Bank of Alachua County, Gainesville, Fla.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
American National Bank of Jacksonville, Jacksonville, Fla. (14464), with	\$271,556,000	11	_____
and American National Bank of Alachua County Gainesville, Fla. (17368), which had	28,690,000	3	_____
merged January 1, 1985, under the charter and title of the former. The merged bank at date of merger had.	295,043,000	_____	14

No decision was issued.

A copy of the Attorney General's report was not available at press time.

* * *

BANK OF NEW ENGLAND-FRANKLIN COUNTY, NATIONAL ASSOCIATION,
Greenfield, Mass., and Bank of New England-Ware, Ware, Mass., and Bank of New England-Berkshire County, National Association, Williamstown, Mass., and Bank of New England-Hampshire County, National Association, Northampton, Mass.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Bank of New England-Ware, Ware, Mass., with	\$ 46,905,000	3	_____
and Bank of New England-Berkshire County, National Association, Williamstown, Mass. (3092), which had	30,424,000	2	_____
and Bank of New England-Hampshire County, National Association, Northampton, Mass. (383), which had.	48,605,000	5	_____
and Bank of New England-Franklin County, National Association, Greenfield, Mass. (474), which had	106,650,000	4	_____
merged January 1, 1985, under charter and title of the latter. The merged bank at date of merger had	232,584,000	_____	14

No decision was issued.

A copy of the Attorney General's report was not available at press time.

* * *

BANK OF NEW ENGLAND-WEST, NATIONAL ASSOCIATION,
Springfield, Mass., and Bank of New England-Franklin County, National Association, Greenfield, Mass.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Bank of New England-Franklin County, National Association, Greenfield, Mass. (474), with . .	\$ 232,584,000	14	_____
Bank of New England-West, National Association, Springfield, Mass. (1939), which had	879,532,000	23	_____
merged January 1, 1985, under charter and title of the latter. The merged bank at date of merger had	1,103,751,000	_____	37

No decision was issued.

A copy of the Attorney General's report was not available at press time.

* * *

COMMERCE BANK OF EXCELSIOR SPRINGS.
 Excelsior Springs, Mo. and Commerce Bank of Clay County, N.A., Kansas City, Mo.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Commerce Bank of Clay County, N.A., Kansas City, Mo. (16750), with	\$14,636,000	1	_____
and Commerce Bank of Excelsior Springs, Excelsior Springs, Mo., which had	28,508,000	2	_____
merged January 1, 1985, under charter and title of the former. The merged bank at date of merger had	42,986,000	_____	3

No decision was issued

A copy of the Attorney General's report was not available at press time.

* * *

COMMERCE BANK OF FESTUS,
 Festus, Mo., and Commerce Bank of Arnold, N.A., Arnold, Mo., and Commerce Bank of House Springs,
 House Springs, Mo.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Commerce Bank of Festus, Festus, Mo., with	\$ 65,977,000	3	_____
and Commerce Bank of House Springs, House Springs, Mo., which had	26,601,000	3	_____
and Commerce Bank of Arnold, N.A., Arnold, Mo. (16432), which had	23,360,000	2	_____
merged January 1, 1985, under charter of the latter and title of "Commerce Bank of Jefferson County, N.A.," The merged bank at date of merger had	115,072,000	_____	8

No decision was issued

A copy of the Attorney General's report was not available at press time.

* * *

COMMERCE BANK OF ST. CHARLES, N.A.,
 St. Charles, Mo., and Commerce Bank of Wentzville, Wentzville, Mo.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Commerce Bank of St. Charles, N.A., St. Charles, Mo. (16946), with	\$ 53,950,000	3	_____
and Commerce Bank of Wentzville, Wentzville, Mo., which had	49,674,000	4	_____
merged January 1, 1985, under charter of the former and title of "Commerce Bank of St. Charles County, N.A." The merged bank at date of merger had	103,419,000	_____	7

No decision was issued

A copy of the Attorney General's report was not available at press time

* * *

COMMERCE BANK OF TOWER GROVE,
Tower Grove, Mo., and Commerce Bank of St. Louis, N.A., St. Louis, Mo.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Commerce Bank of Tower Grove, Tower Grove, Mo., with	\$255,952,000	2	_____
and Commerce Bank of St. Louis, N.A., St. Louis, Mo. (16944), which had	228,879,000	5	_____
merged January 1, 1985, under charter and title of the latter. The merged bank at date of merger had	479,663,000	_____	7

No decision was issued.

A copy of the Attorney General's report was not available at press time.

* * *

FIRST NATIONAL BANK OF BRUNSWICK,
Brunswick, Ga., and The First National Bank of Wayne County, Jesup, Ga.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
First National Bank of Brunswick, Brunswick, Ga. (4944), with.	\$171,253,000	9	_____
and The First National Bank of Wayne County, Jesup, Ga. (15614), which had	36,499,000	3	_____
merged January 1, 1985, under the charter and title of "Trust Company of Southeast Georgia, National Association." The merged bank at date of merger had	207,752,000	_____	12

No decision was issued.

A copy of the Attorney General's report was not available at press time.

* * *

FIRST NATIONAL BANK NORTHWEST OHIO,
Bryan, Ohio, and One Branch of The Dime Bank of Northwest Ohio, Continental, Ohio

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
One Branch of The Dime Bank of Northwest Ohio, Continental, Ohio, with.	\$ 2,500,000	1	_____
was purchased January 1, 1985, by First National Bank Northwest Ohio, Bryan, Ohio (13899), which had	116,697,000	10	_____
After the purchase was effected the receiving bank had	119,197,000	_____	11

COMPTROLLER'S DECISION

On September 5, 1984, application was made to the Office of the Comptroller of the Currency by First National Bank of Northwest Ohio, Bryan, Ohio (FNB), to purchase the assets and assume the liabilities of the Ridgeville Corners Office of The Dime Bank of Northwest Ohio, Continental, Ohio (Dime Bank). The application is based upon an agreement finalized between the two banks on May 10, 1984.

As of June 30, 1984, FNB had approximately \$92 million in deposits and \$111 million in total assets. As the principal wholly owned subsidiary of Tri-State Financial Bancorp, Inc., FNB operates 10 banking offices in northwestern Ohio. Dime Bank, as of the same date, had approximately \$37 million in deposits and \$39 million in total assets. The bank operates six offices in Putnam, Henry and Logan Counties.

FNB's service area consists of the contiguous northwestern Ohio counties of Deane, Fulton, and Williams. Within this service area FNB operates 10 banking offices. Henry County, which is contiguous to the market served by FNB, has been identified as the service area of Dime Bank as well as the relevant geographic market for the proposal. Analysis indicates, however, that this is not a proper delineation. Given its size and the demographics of the area, the service area of Dime Bank and the relevant geographic market for the proposal is more appropriately identified as the Town of Ridgeville Corners and the immediately surrounding area.

FNB and Dime Bank serve separate market areas. The office of FNB which is closest to Dime Bank is located at a distance of nine miles. The area of market overlap is not considered to be significant. Consummation of the proposal will not be significantly adverse to competition.

The Bank Merger Act requires this Office to consider the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to

be served. The future prospects of the resulting bank appear favorable as does its ability to further enhance its competitiveness in the market and serve the convenience and needs of its customers.

A review of the record of this application and other information available to this Office as a result of its regulatory responsibilities revealed no evidence that the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

October 24, 1984

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

FIRST NATIONAL BANK IN PIERRE, Pierre, S. Dak., and The Frontier Bank, Murdo, S. Dak.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
The Frontier Bank, Murdo, S. Dak., with	\$ 9,641,000	2	_____
and First National Bank in Pierre, Pierre, S. Dak. (14252), which had	55,911,000	3	_____
merged January 1, 1985, under charter and title of the latter. The merged bank at date of merger had	65,552,000	_____	5

COMPTROLLER'S DECISION

On October 17, 1984, application was made to the Office of the Comptroller of the Currency, pursuant to the Bank Merger Act, 12 U.S.C. 1828(c), for prior authorization to merge The Frontier Bank, Murdo, S. Dak. (Frontier), into First National Bank in Pierre, Pierre, S. Dak. (First). The application is based on an agreement finalized between Frontier and First on August 9, 1984.

First is a subsidiary of Capital Bancorporation, a holding company 100 percent owned by Frank L. Farrar. As of June 30, 1984, First had total assets of \$56.8 million and total deposits of \$51.1 million.

Frontier is 100 percent owned by Frank L. Farrar. As of June 30, 1984, Frontier had total assets of \$11.5 million and total deposits of \$9.7 million.

The relevant geographic market for this proposal is the area immediately surrounding Murdo in Jones County, i.e., the area from which Frontier derives the bulk of its deposits. First does not compete in this market as its nearest office is over forty miles distant. This separation, together with the fact that both banks have been under common ownership since June, 1983, indicates that consummation of this proposal will not have a significantly adverse effect on competition.

The Bank Merger Act requires this Office to consider "... the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served." The financial and managerial resources of both banks are satisfactory and future prospects of the combined entity are good. The merger will provide the Murdo and Midland communities with an expanded and more efficient line of banking services and will enable First to provide more effective competition in the market.

A review of the record of this application and other information available to this Office as a result of its regulatory responsibilities revealed no evidence that the applicants' records of helping to meet the credit

needs of their communities, including low and moderate income neighborhoods, are less than satisfactory. We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

November 30, 1984

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

THE FIRST NATIONAL BANK OF ROME,
Rome, Ga., and The Rockmart Bank, Rockmart, Ga.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
The Rockmart Bank, Rockmart, Ga., with	\$ 34,312,000	2	_____
and The First National Bank of Rome, Rome, Ga. (2368), which had	169,131,000	3	_____
merged January 1, 1985, under charter of the latter and title of "Trust Company Bank of Northwest Georgia, National Association." The merged bank at date of merger had		_____	5

COMPTROLLER'S DECISION

On June 5, 1984, application was made to the Office of the Comptroller of the Currency for prior authorization to merge The Rockmart Bank, Rockmart, Ga. ("Rockmart"), into The First National Bank of Rome, Rome, Ga. ("FNB"). This application is based on an agreement finalized between Rockmart and FNB on April 10, 1984.

As of March 31, 1984, Rockmart had total deposits of \$30 million and operated its two offices in the City of Rockmart. On the same date FNB, a wholly owned subsidiary of Trust Company of Georgia, Atlanta, Ga., had total deposits of \$109 million.

The relevant geographic market for this proposal is the City of Rockmart and its environs, where Rockmart operates its offices and derives over 75 percent of its deposits. FNB does not operate any offices and generates only a nominal volume of its deposits in the relevant market. Consequently, the proponents do not

currently compete directly and consummation of this proposal will have no significant effect on existing competition in the relevant market.

The Bank Merger Act requires this Office to consider "... the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served." The financial and managerial resources of both banks are considered satisfactory. The future prospects of the proponent bank, independently and in combination, are favorable, as are the expected effects of the proposal on the convenience and needs of the community to be served.

A review of the record of this application and other information available to this Office as a result of its regulatory responsibilities, revealed no evidence that the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other fac-

*Asset figures are from September 30, 1984, report of condition for The Rockmart Bank and from the December 31, 1984 report of condition for The First National Bank of Rome. Information as of date of consummation was not available at press time.

...factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

October 23, 1984

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

INDIAN HEAD NATIONAL BANK OF KEENE,
Keene, N.H., and The Ashuelot National Bank of Keene, Keene, N.H.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
The Ashuelot National Bank of Keene, Keene, N.H. (946), with	\$47,453,000	3	_____
and Indian Head National Bank of Keene, Keene, N.H. (877), which had	51,974,000	2	_____
merged January 1, 1985, under charter and title of the latter. The merged bank at date of merger had		_____	5

COMPTROLLER'S DECISION

On September 5, 1984, application was made to the Office of the Comptroller of the Currency for prior authorization to merge The Ashuelot National Bank of Keene, Keene, N.H. (ANB) into Indian Head National Bank of Keene, Keene, N.H. (IHNB). This application was filed pursuant to a Plan of Affiliation and Merger executed between ANB and IHNB on July 3, 1984.

As of June 30, 1984, ANB, an independent bank, held total deposits of \$40 million. As of the same date, IHNB held total deposits of \$37 million. IHNB is a subsidiary of Indian Head Banks, Inc., the second largest bank holding company in New Hampshire.

The relevant geographic market for this proposal is Cheshire County, N.H. ANB derives 91.6 percent of its total deposits within this market, and all banking offices of both banks are located in the County. Four commercial banks operate in the market, of which ANB and IHNB rank third and fourth, respectively.

In addition, the market contains four savings banks and one cooperative bank. The applicant has presented convincing evidence that savings banks are acting as providers of the complete range of banking services. Local newspaper advertisements and the recruitment of commercial lending personnel, have resulted in savings banks experiencing rapid entry into the commercial aspect of banking, obtaining 95 percent of new commercial loan growth among Cheshire County financial institutions during the 12-month period ending September 30, 1984.

Among these institutions, ANB ranks seventh and IHNB ranks eighth by deposit share, holding 7.35 percent and 6.21 percent, respectively. The Cheshire County Savings Bank ranks first, with a 33.3 percent deposit share. Three other area financial institutions each hold between 10 and 13 percent of market deposits. Subsequent to the consummation of this proposal, the resulting bank will rank second, with 13.6 percent of market deposits. Accordingly, consummation of this proposal will not have a significantly adverse effect on competition in the Cheshire County Market. The presence of another institution of sufficient size to compete effectively with the cluster of second tier competitors and, possibly to provide a challenge to the market's largest institution, should result in increased competition.

The Bank Merger Act requires this Office to consider "... the financial and managerial resources and future prospects of the existing and proposed institutions and needs of the community to be served." We find the financial and managerial resources of ANB and IHNB to be satisfactory. The future prospects of the proponents, individually and combined, are considered favorable.

A review of the record of this application and other information available to this Office as a result of its regulatory responsibilities revealed no evidence that the applicants' records of helping to meet the credit needs to their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other fac-

*Source: FDIC's June 30, 1984 report of condition, income and capital information was not available at press time.

tors considered in evaluating this approval are satisfactory. Accordingly, the application is approved.

November 30, 1984

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

MICHIGAN NATIONAL BANK-VALLEY,
Saginaw Township, Mich., and Michigan National Bank-Midland, Midland, Mich.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Michigan National Bank-Valley, Saginaw Township, Mich. (15403) with	\$156,478,000	15	_____
and Michigan National Bank-Midland, Midland, Mich. (16920) which had	24,772,000	4	_____
merged January 1, 1985 under the charter and title of the former. The merged bank at date of merger had.	180,863,000	_____	19
The resulting bank is a subsidiary of Michigan National Corporation, Bloomfield Hills, Mich.			

No decision was issued.

A copy of the Attorney General's report was not available at press time.

* * *

NCNB NATIONAL BANK OF FLORIDA,
Tampa, Fla., and NCNB National Bank of Florida, Jacksonville, Fla.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
NCNB National Bank of Florida, Tampa, Fla. (17775), with.	\$4,494,823,000	138	_____
and NCNB National Bank of Florida, Jacksonville, Fla. (18022), which had	99,499,000	1	_____
merged January 1, 1985, under the charter and title of the former. The merged bank at date of merger had.	4,572,751,000	_____	139

No decision was issued.

A copy of the Attorney General's report was not available at press time.

* * *

NORWEST BANK OMAHA, N.A.,
Omaha, Neb., and Norwest Bank Omaha South, N.A., Omaha, Neb.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Norwest Bank Omaha, N.A., Omaha, Neb. (2978), with	\$631,654,000	4	_____
and Norwest Bank Omaha South, N.A., Omaha, Neb. (9908), which had	203,796,000	3	_____
merged January 1, 1985, under charter and title of the former. The merged bank at date of merger had.	835,374,000	_____	7

No decision was issued.

A copy of the Attorney General's report was not available at press time

* * *

THIRD NATIONAL BANK IN NASHVILLE,
Nashville, Tenn., and First National Bank of Rutherford County, Smyrna, Tenn.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Third National Bank of Nashville, Nashville, Tenn. (13103), with	\$1,982,712,000	31	_____
and First National Bank of Rutherford County, Smyrna, Tenn. (9807), which had	22,932,000	3	_____
merged January 1, 1985, under the charter and title of the former. The merged bank at date of merger had	2,005,644,000	_____	34

No decision was issued

A copy of the Attorney General's report was not available at press time.

* * *

WASHINGTON COUNTY NATIONAL SAVINGS BANK OF WILLIAMSPORT,
Williamsport, Md., and Citizens Bank of Keedysville, Keedysville, Md.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
Citizens Bank of Keedysville, Keedysville, Md., with	\$15,486,000	2	_____
and Washington County National Savings Bank of Williamsport, Williamsport, Md. (1551), which had	42,428,000	3	_____
merged January 1, 1985, under charter and title of the latter. The merged bank at date of merger had		_____	5

COMPTROLLER'S DECISION

On September 17, 1984, application was made to the Office of the Comptroller of the Currency to merge Citizens Bank of Keedysville, Keedysville, Md. (Citizens), into Washington County National Savings Bank of Williamsport, Williamsport, Md. (WCNSB). This application is based on an agreement finalized between the proponents on August 31, 1984.

As of June 30, 1984, WCNSB, an independent bank, had total deposits of \$32 million and operated three offices in central Washington County. On September 24, 1984, WCNSB consummated its acquisition of a \$6 million deposit branch in western Washington County.

Citizens, an independent unit bank with two offices in southeastern Washington County, had total deposits of \$14 million as of June 30, 1984.

The relevant geographic market for this proposal is Washington County where both proponents operate and derive the bulk of their deposits. Within the market there are seven commercial banks holding total de-

posits of \$502 million. WCNSB, including its recent branch acquisition, is the fifth largest bank in the market with a 7 percent market share; Citizens is the smallest with a 3 percent share. After consummation, WCNSB will become the fourth largest with a 10 percent market share. Other banks in the market include three of the state's four largest commercial banks. In light of the market share of the acquiring bank and the domination of the market by three banks controlling transaction would not have a significantly adverse effect on competition in Washington County.

The Bank Merger Act requires this Office to consider " . . . the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served " We find the financial and managerial resources of WCNSB and Citizens to be satisfactory the future prospects of the proponents, individually and combined, are considered favorable, although the larger resulting bank is expected to provide a wider range of banking services

A review of the record of this application and other information available to this Office as a result of its regulatory responsibilities revealed no evidence that

Washington County National Savings Bank (1984 report of condition and operations) and Citizens Bank of Keedysville (1984 report of condition and operations) were not available at press time.

the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satis-

factory. Accordingly, the application is approved
November 30, 1984

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

GLENS FALLS NATIONAL BANK AND TRUST COMPANY,
Glens Falls, N.Y., and Two Branches of The National Bank and Trust Company of Norwich, Norwich, N.Y.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Two Branches of The National Bank and Trust Company of Norwich, Norwich, N.Y. (1354), with	\$ 1,750,000	2	_____
were purchased January 4, 1985, by Glens Falls National Bank and Trust Company, Glens			
Falls, N.Y. (7699), which had	239,756,000	13	_____
After the purchase was effected the receiving bank had	241,506,000	_____	15

COMPTROLLER'S DECISION

An application was filed on August 24, 1984 with the Office of Comptroller of the Currency by Glens Falls National Bank and Trust Company, Glens Falls, N.Y. (GFNB), to purchase the assets and assume the liabilities of the North Plaza office and the South Plaza office of The National Bank and Trust Company of Norwich, Norwich, N.Y. (NBTC). The application is based on a written agreement executed by the banks on June 20, 1984.

As of June 30, 1984, GFNB held total deposits of \$190 million and operated 13 offices in Warren, Washington, Saratoga and Essex counties. GFNB is a majority owned subsidiary of Arrow Bankcorp, a one-bank holding company.

As of the same date, the two branches of NBTC to be acquired, both located in Norwich, New York, held total deposits of \$4 million.

The proponents currently do not compete in the relevant geographic market and therefore consummation of the proposal will not have a significant effect on competition in the relevant geographic market. The relevant geographic market for this proposal is Norwich and the surrounding municipalities where the two branches acquire the bulk of their deposits. GFNB

does not operate any offices in this market and its closest office is more than 100 miles distant. Accordingly, consummation of this proposal will merely substitute one competitor in the market for another.

The Bank Merger Act requires this Office to consider "... the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served." The financial and managerial resources of both banks are satisfactory. The future prospects of the buying bank are considered favorable, as are the expected effects of the proposal on the convenience and needs of the community to be served.

A review of the record of this application and other information available to this Office as a result of its regulatory responsibilities revealed no evidence that the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other fac-

...factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

October 17, 1984

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

MELLON BANK, NATIONAL ASSOCIATION,
Greensburg, Pa., and The Citizens National Bank of New Castle, New Castle, Pa.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
The Citizens National Bank of New Castle, New Castle, Pa. (4676), with	\$ 67,092,000	4	
and Mellon Bank, National Association, Greensburg, Pa. (6301), which had	24,530,492,000	115	
merged January 7, 1985, under charter and title of the latter. The merged bank at date of merger had			119

COMPTROLLER'S DECISION

On September 11, 1984, application was made to the Office of the Comptroller of the Currency for prior authorization to merge The Citizens National Bank of New Castle, New Castle, Pa. (Citizens), into Mellon Bank, National Association, Greensburg, Pa. (Mellon). This application is based on an agreement finalized between the proponents on July 16, 1984.

As of June 30, 1984, Mellon had total deposits of \$13.6 billion and operated 115 domestic banking offices. Mellon is a wholly owned subsidiary of Mellon National Corporation, the 13th largest bank holding company in the United States in terms of assets. Citizens, as of the same date, had total deposits of \$58 million and operated three branches in Lawrence County.

The relevant market for this proposal is Lawrence County. The proponents currently do not compete in this market and therefore consummation of the proposal will not have a significant effect on competition. Neither Mellon nor any of its affiliated banks operate in this market and Mellon's closest office is 16 miles distant. Accordingly, consummation of this proposal will merely substitute one competitor in the market for another.

The Bank Merger Act requires this Office to consider

* Assets figures are from the December 31, 1984 report of condition and assets of banks. Information was not available at press time.

* * *

"... the financial and managerial resources and future prospects of the existing and proposed institutions and needs of the community to be served." We find the financial and managerial resources of Mellon and Citizens to be satisfactory. The future prospects of the proponents, individually and combined, are considered favorable, although the larger resulting bank is expected to provide a wider range of banking services.

A review of the record of this application and other information available to this Office as a result of its regulatory responsibilities revealed no evidence that the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

November 30, 1984

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposal transaction and conclude that it would not have a significantly adverse effect on competition.

MBANK SAN FELIPE, NATIONAL ASSOCIATION,
Houston, Tex., and Capital Bank West Loop, National Association, Houston, Tex.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
Capital Bank, West Loop, National Association, Houston, Tex. (16388), with	\$51,773,000	1	—
and MBank San Felipe, National Association, Houston, Tex. (16966), which had	64,819,000	1	—
consolidated January 10, 1985, under charter of former and title of the latter. The consolidated bank at date of consolidation had		—	2

COMPTROLLER'S DECISION

MBank San Felipe, National Association and Capital Bank West Loop, National Association are majority owned and controlled by MCorp, a registered bank holding company. The proposed consolidation is a corporate reorganization which would have no effect on competition.

A review of the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served has disclosed no reason why this application should not be approved.

*Asset figures are from the December 31, 1984, report of condition. Information as of date of consummation was not available at press time

The record of this application and other information available to this Office as a result of its regulatory responsibilities reveals no evidence that the banks' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

This is the prior written approval required by the Bank Merger Act, 12 U.S.C. 1828(c), for the applicants to proceed with the consolidation.

January 4, 1985

The Attorney General's report had not been received at press time.

* * *

FIRST NATIONAL BANK OF FLORIDA,
Tampa, Fla., and Bank of Clearwater, Clearwater, Fla., and The Second National Bank of Tampa, Tampa, Fla.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
Bank of Clearwater, Clearwater, Fla., with	\$ 300,393,000	11	—
and The Second National Bank of Tampa, Tampa, Fla. (15396), which had	103,677,000	1	—
and First National Bank of Florida, Tampa, Fla. (3497), which had	2,362,221,000	54	—
merged January 14, 1985, under charter and title of the latter. The merged bank at date of merger had.		—	66

No decision was issued.

A copy of the Attorney General's report was not available at press time

*Asset figures are from the December 31, 1984, report of condition. Information as of date of consummation was not available at press time

* * *

THE FIRST NATIONAL BANK IN MARLOW,
Marlow, Okla and The First National Bank in Marlow, Marlow, Okla.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
The First National Bank in Marlow, Marlow, Okla (12129), with	\$27,447,000	1	_____
was purchased January 24, 1985, by The First National Bank in Marlow, Marlow, Okla. (20838), which had	N.A.	0	_____
After the purchase was effected the receiving bank had		_____	1

COMPTROLLER'S DECISION

On January 24, 1985, application was made to the Comptroller of the Currency to grant prior written approval for The First National Bank in Marlow, Marlow, Okla (Assuming Bank), to purchase certain assets and assume certain liabilities of First National Bank in Marlow, Marlow, Okla (First). The application rests upon an agreement, incorporated herein by reference the same as if fully set forth, negotiated between the Assuming Bank and the Federal Deposit Insurance Corporation (FDIC) as receiver of First. For reasons set forth below, the application is hereby approved and the Assuming bank is authorized to consummate the purchase and assumption transaction immediately.

The First National Bank in Marlow was chartered as a national bank on March 2, 1922, and at the close of business on January 10, 1985, had total assets of approximately \$28 million. The bank was declared insolvent by the Comptroller of the Currency on January 24, 1985, and was placed in the hands of the FDIC as receiver. The Comptroller has now been asked to grant his written approval of the proposed agreement negotiated between the FDIC and Assuming Bank by which the latter would purchase certain assets and assume certain liabilities of First.

Under the Bank Merger Act, 12 U.S.C. 1828(c), the Comptroller cannot approve a purchase and assumption transaction which would have certain proscribed anticompetitive effects unless he finds these anticompetitive effects to be clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served. Additionally the Comptroller is directed to consider the financial and managerial resources and future prospects of the existing and proposed institutions, and the convenience and needs of the community to be served. When necessary

however, to prevent the evils attendant upon the failure of a bank, the Comptroller can dispense with the standards applicable to usual acquisition transactions and need not consider reports on the competitive effects of the transactions ordinarily solicited from the Department of Justice and other banking agencies. He is authorized in such circumstances to act immediately in his sole discretion to approve such a transaction and to authorize its immediate consummation.

The proposed acquisition will be in accord with all pertinent provisions of the National Bank Act and will prevent a disruption of banking services to the Marlow community. Assuming Bank has sufficient financial resources, and this acquisition will enable it to enhance the banking services offered in the Marlow community.

The Comptroller finds that the anticompetitive effects of the proposed transaction, if any, are clearly outweighed in the public interest by the probable effect of the proposed transaction in meeting the convenience and needs of the community to be served. For these reasons, the Assuming Bank's application to assume certain liabilities and purchase certain assets of First, as set forth in the agreement, is approved. The Comptroller further finds that the failure of First requires him to act immediately, as contemplated by the Bank Merger Act, to prevent disruption of banking services to the community; and the Comptroller thus waives publication of notice, dispenses with solicitation of competitive reports from other agencies, and authorizes the transaction to be consummated immediately.

By accepting approval and by consummating the purchase and assumption transaction, Assuming Bank agrees to be bound by the following conditions

- 1. An initial minimum ratio of primary capital to total assets of no less than five percent (5%). The amount of intangible assets which may be included in capital for purposes of this assessment is limited to not more

* Assuming bank will file a separate FD-204 report in accordance with the instructions for FD-204. This report, together with the information furnished by the FDIC, will be used by the Comptroller to determine the effect of the transaction on the community to be served.

than twenty-five percent (25%) of tangible primary capital.

2. Achieve within two (2) years and thereafter maintain a ratio of primary capital to total assets that complies with the Comptroller's minimum capital adequacy guidelines.

These conditions shall be deemed to be "conditions

imposed in writing by the agency in connection with the granting of any application or other request within the meaning of 12 U.S.C. §1818(b)(1)

January 24, 1985

Due to the emergency nature of the transaction, a report from the Attorney General was not requested

* * *

TRUST COMPANY OF AUGUSTA, NATIONAL ASSOCIATION,
Augusta, Ga., and First National Bank of Thomson, Thomson, Ga.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Trust Company of Augusta, National Association, Augusta, Ga. (1860), with	\$168,846,000	9	_____
and First National Bank of Thomson, Thomson, Ga. (9302), which had.	56,256,000	3	_____
merged January 26, 1985, under the charter and title of the former. The merged bank at date of merger had.	225,102,000	_____	12

No decision was issued.

A copy of the Attorney General's report was not available at press time.

* * *

FIRST INTERSTATE BANK OF WASHINGTON, NATIONAL ASSOCIATION,
Seattle, Wash., and Olympic Bank, Everett, Wash.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Olympic Bank, Everett, Wash., with	\$ 338,571,000	21	_____
and First Interstate Bank of Washington, National Association, Seattle, Wash. (3417), which had.	2,608,784,000	94	_____
merged January 28, 1985, under charter and title of the latter. The merged bank at date of merger had.	2,947,355,000	_____	115

COMPTROLLER'S DECISION

On September 11, 1984, application was made to the Office of the Comptroller of the Currency for prior authorization to merge Olympic Bank, Everett, Wash. (Olympic), into First Interstate Bank of Washington, National Association, Seattle, Wash. (First Interstate), under the charter and title of the latter. The application is based upon an agreement executed by the two banks on July 2, 1984.

As of June 30, 1984, First Interstate had approximately \$2.1 billion in deposits and \$2.6 billion in total assets. First Interstate is a wholly owned subsidiary of First Interstate Bancorp, Los Angeles, California, a grand-

fathered multistate bank holding company operating 22 subsidiary banks in 13 western states. At year-end 1983, First Interstate Bancorp held consolidated deposits of \$32 billion and was the seventh largest banking organization in the United States

On the same date, Olympic, operating out of Everett Washington, had approximately \$306 million in deposits and \$361 million in total assets. Olympic operates 21 banking offices located in Snohomish, Skagit, and Island Counties

The relevant geographic market for this proposal is the

area from which Olympic derives the bulk of its deposits: eastern Snohomish and Island Counties, and the area immediately around Anacortes in Skagit County. Olympic maintains 17 branches in Snohomish County, three branches in Island County and one branch in Anacortes, Skagit County, Washington.

First Interstate operates no branches in either Island County or the area in or around Anacortes; therefore, consummation of this proposal will not have an effect on competition in these markets. One competitor will merely be replaced by another strong competitor.

Within Snohomish County, Olympic is the third largest competitor with 19.2 percent of the market's commercial bank deposits, and First Interstate is the ninth largest with 2.9 percent. First Interstate and Olympic are direct competitors in this market. Competition within Snohomish County between commercial banks, savings and loan associations, and other providers of financial services is keen. Competition is provided by 11 commercial banks, including First Interstate and Olympic, 15 savings and loan associations and five mutual savings banks. The ability of these institutions to offer a full range of services mitigates any lessening of competition brought on by consummation of this proposal.

Although some direct competition will be eliminated within Snohomish County, consummation of the proposal will not have a significantly adverse effect upon competition in light of the number and size of competitors in Snohomish County and the relative market shares of the two merging banks. The resultant bank will merely advance to become the market's second largest, rather than third largest competitor. The

merger will not dramatically increase the level of concentration in the market. Moreover, the proximity of numerous additional banking alternatives in Seattle, and other areas of adjacent King County further mitigates any anticompetitive effects resulting from the proposal.

The Bank Merger Act requires this Office to consider . . . "the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served." The future prospects of the resulting bank appear favorable as does its ability to further enhance its competitiveness in the market and serve the convenience and needs of its customers.

A review of the record of this application and other information available to this Office as a result of its regulatory responsibilities revealed no evidence that the banks' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have analyzed this proposal pursuant to the Bank Merger Act and find that it will not significantly lessen competition in the relevant market. Other factors considered in evaluating the proposal are satisfactory. Accordingly, the application is approved, subject to the condition noted in a separate communication to First Interstate.

December 21, 1984

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

FIRST NATIONAL BANK IN PRATT, Pratt, Kans., and Coats State Bank, Coats, Kans.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
Coats State Bank, Coats, Kans., with	\$ 7,272,000	1	_____
and First National Bank in Pratt, Pratt, Kans. (6229), which had	49,182,000	1	_____
merged January 30, 1985, under charter and title of the latter. The merged bank at date of merger had		_____	1

COMPTROLLER'S DECISION

On November 26, 1984, application was made to the Office of the Comptroller of the Currency pursuant to

the Bank Merger Act, 12 U.S.C. 1828(c), for prior authorization to merge Coats State Bank, Coats, Kans.

* Assets taken from the Comptroller's 31, 1984, report of condition. Assets of the proposed institution were not included in previous report.

(Coats), into First National Bank in Pratt, Pratt, Kans. (First). The application is based on an agreement finalized between Coats and First on November 2, 1984.

First is a wholly owned subsidiary of First Pratt Bankshares, Inc., with the exception of directors' qualifying shares. First had total assets of \$45.7 million and total deposits of \$42.4 million on June 30, 1984, and operated one office in Pratt, Kansas.

Coats is affiliated with First through common shareholders. Coats' shareholders own 99.7 percent of First Pratt Bankshares stock and First Pratt Bankshares' stockholders own 83.5 percent of Coats stock. Coats had total assets of \$9.3 million and total deposits of \$8.5 million on June 30, 1984, and operated one office in Coats, Kansas.

First and Coats are both located in Pratt County approximately 15 miles apart. Since both banks are majority owned by the same shareholders, consummation of this proposal will not have a significant effect on competition.

The Bank Merger Act requires this Office to consider "... the financial and managerial resources and future prospects of the existing and proposed institutions

and the convenience and needs of the community to be served " The financial and managerial resources of both banks are satisfactory and future prospects of the combined entity are good The merger will provide the combined bank with greater resources to more effectively meet the banking needs of the communities which it serves with an expanded and more efficient line of banking services.

A review of the record of this application and other information available to this office as a result of its regulatory responsibilities revealed no evidence that the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in any relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

December 31, 1984

SUMMARY OF REPORT BY ATTORNEY GENERAL
We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

**THE FIRST NATIONAL BANK OF FARMVILLE,
Farmville, Va., and Bank of Amelia, Amelia, Va.**

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Bank of Amelia, Amelia, Va., with	\$ 9,017,000	1	_____
and The First National Bank of Farmville, Farmville, Va. (5683), which had	82,701,000	7	_____
merged February 1, 1985, under charter and title of the latter. The merged bank at date of merger had.	91,718,000	_____	8

COMPTROLLER'S DECISION

On September 25, 1984, application was made to the Office of the Comptroller of the Currency, pursuant to the Bank Merger Act, 12 U.S.C. 1828(c), for prior authorization to merge Bank of Amelia, Amelia, Va. (Amelia), into The First National Bank of Farmville, Farmville, Va. (First). The application is based on an agreement finalized between Amelia and First on August 22, 1984.

First had total assets of \$82.9 million and total deposits of \$72.9 million as of June 30, 1984 First is an

independent bank operating its main office and six branches in Prince Edward and Appomattox Counties

Amelia had total assets of \$8.2 million and total deposits of \$6.7 million as of June 30, 1984 It operates its only office in Amelia County

The relevant geographic market for this proposal is Amelia County, where Bank of Amelia has its only office and from which it derives all of its deposits First does not operate any offices in Amelia County and its

offices in Fairview are over 20 miles from Amelia. Consequently, consummation of this proposal will merely replace one competitor with another and will not have a significantly adverse effect on competition.

The Bank Merger Act requires this Office to consider "the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served." The financial and managerial resources of both banks are satisfactory and future prospects of the combined entity are good. Amelia was organized with the sponsorship of First with the expectation that it would be merged into First after the 5-year waiting period required by Virginia branch banking laws. The merger will not remove an alternative source of banking services but will create a stronger independent bank which will be able to more effectively compete with the statewide banks in the market.

A review of the record of this application and the other

information available to this Office as a result of its regulatory responsibilities revealed no evidence that the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

December 28, 1984

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

FIRST NATIONAL BANK OF FLORIDA,

Tampa, Fla., and First Gulf Beach Bank and Trust Co., St. Petersburg Beach, Fla., and First Bank & Trust Company, Belleair Bluffs, Fla.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
First Gulf Beach Bank and Trust Co., St. Petersburg Beach, Fla., with	\$ 103,456,000	6	_____
and First Bank & Trust Company, Belleair Bluffs, Fla., with	96,327,000	3	_____
and First National Bank of Florida, Tampa, Fla., (3497), which had	2,362,221,000	83	_____
merged February 1, 1985, under charter and title of the latter. The merged bank at date of merger had.		_____	92

COMPTROLLER'S DECISION

On September 25, 1984, application was made to the Office of the Comptroller of the Currency for prior authorization to merge First Gulf Bank and Trust Company, St. Petersburg Beach, Fla. (First Gulf), and First Bank & Trust Company, Belleair Bluffs, Fla. (First Bank) into First National Bank of Florida, Tampa, Fla. (FNBF). The application is based on agreements executed by the proponents on July 6, 1984.

As of June 30, 1984, FNBF had total deposits of \$1.6 billion. Includes deposits of First National Bank of Brevard which was merged into FNBF effective October 1, 1984. FNBF is a majority owned subsidiary of

First Florida Banks, Inc. (FFB), the seventh largest commercial banking organization in Florida with consolidated deposits of \$2.9 billion. FFB operates 83 banking offices in 16 counties of Florida, primarily along the state's west coast.

As of the same date, First Gulf had total deposits of \$91 million and operated six offices in central and south Pinellas County. First Bank had total deposits of \$84 million and operated three offices in central and south Pinellas County. First Gulf and First Bank are affiliated through common ownership.

The relevant geographic market for this proposal is central and south Pinellas County where both First Gulf and First Bank operate and obtain the bulk of their deposits. Although FNBF does not have any offices in

* Summary of assets as of September 30, 1984, report of condition information as of date of consummation was not available at present time.

this market, an affiliate, Bank of Clearwater, operates eight offices, holding deposits of \$233 million, in the market. Within this market there are 21 commercial banking organizations holding market deposits of \$4.5 billion. FFB is the ninth largest with a 5 percent market share; First Gulf and First Bank collectively rank as the eleventh largest with a 4 percent share. After consummation, FFB would be the fifth largest with a 9 percent market share. The market is unconcentrated and competition is intense, including offices of the nine largest commercial banking organizations in the state. Additionally, there are 23 savings and loan associations in the market holding deposits of \$6.1 billion. Based on the above analysis, this Office finds that consummation of this proposal will not have a significantly adverse effect on competition in the relevant market.

The Bank Merger Act requires this Office to consider "... the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served." We find the financial and managerial resources of First Gulf, First Bank and FNBF to be satisfactory. The future prospects of the proponents,

individually and combined, are considered favorable although the larger resulting bank is expected to provide a wider range of banking services

A review of the record of this application and other information available to this Office as a result of its regulatory responsibilities revealed no evidence that the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

November 28, 1984

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

MERCANTILE BANK OF NORTHWEST COUNTY N.A.,
St. Louis County, Mo., and One Branch of Mercantile Bank of South County, N.A., St. Louis County, Mo.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
One Branch of Mercantile Bank of South County, N.A., St. Louis County, Mo. (17297), with . . .	\$22,147,000	1	_____
was purchased February 1, 1985, by Mercantile Bank of Northwest County N.A., St. Louis County, Mo. (18359), which had.	13,490,000	1	_____
After the purchase was effected the receiving bank had		_____	2

No decision was issued.

A copy of the Attorney General's report was not available at press time.

*Asset figures are of the entire bank. Information as of date of consummation was not available at press time

* * *

UPPER DAUPHIN NATIONAL BANK,
Millersburg Pa and The Tremont National Bank, Tremont, Pa.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
The Tremont National Bank, Tremont, Pa. (6165), with	\$ 6,498,000	1	_____
and Upper Dauphin National Bank, Millersburg, Pa. (2252), which had	79,157,000	6	_____
merged February 4, 1985, under charter and title of latter. The merged bank at date of merger had	85,180,000	_____	7

COMPTROLLER'S DECISION

On September 25, 1984, application was made to the Office of the Comptroller of the Currency for authorization to merge The Tremont National Bank, Tremont, Pa. (Tremont National), into Upper Dauphin National Bank, Millersburg, Pa. (UDNB), under the charter and title of the latter. The application is based upon an agreement finalized between the two banks on September 11, 1984.

Tremont National was chartered in 1902 and operates a single banking office in Tremont, Pa. As of June 30, 1984 Tremont National had approximately \$7 million in total assets and \$5 million in total deposits. UDNB operates a main office in Millersburg, Pa. and five branch offices located throughout Dauphin County. As of the same date, UDNB had approximately \$75 million in total assets and \$68 million in total deposits.

The main office and all branches of UDNB are located in Dauphin County. The service area of UDNB consists of northern Dauphin County. Tremont National's service area and the relevant geographic market for the proposal consists of the town of Tremont and the immediately surrounding area. The markets served by UDNB and Tremont National are separate and distinct. Accordingly, consummation of the transaction will not be significantly adverse to competition.

The Bank Merger Act requires this Office to consider

"... the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served." The future prospects of the proponents, individually and combined, are favorable, although the larger resulting bank is expected to provide a wider range of banking services.

A review of the record of this application and the other information available to this Office as a result of its regulatory responsibilities revealed no evidence that the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

January 4, 1985.

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

THE CONNECTICUT BANK AND TRUST COMPANY, NATIONAL ASSOCIATION,
Hartford, Conn., and Northern Connecticut National Bank, Windsor Locks, Conn.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
Northern Connecticut National Bank, Windsor Locks, Conn. (14588), with	\$ 77,594,000	8	_____
and The Connecticut Bank and Trust Company, National Association, Hartford, Conn. (4), which had	6,583,484,000	143	_____
merged February 11, 1985, under charter and title of the latter. The merged bank at date of merger had.		_____	151

COMPTROLLER'S DECISION

On October 4, 1984, application was made to the Office of the Comptroller of the Currency for prior authorization to merge Northern Connecticut National Bank, Windsor Locks, Conn. (Northern), into The Connecticut Bank and Trust Company, National Association, Hartford, Conn. (CBT). The application is based on an agreement finalized between the proponents on July 31, 1984.

As of June 30, 1984, CBT held total deposits of \$4.3 billion and operated 143 offices throughout Connecticut. CBT is the principal subsidiary of CBT Corporation, the largest commercial banking organization in the state.

As of the same date, Northern held total deposits of \$63 million and operated eight offices in north central Connecticut.

The relative geographic market for this proposal is north central Connecticut and includes the municipalities of East Granby, East Windsor, Ellington, Enfield, Somers, South Windsor, Suffield, Windsor and Windsor Locks. All of Northern's offices are located within this market and CBT operates three offices in this market. This Office has previously determined that thrift institutions are substantial competitors of commercial banks in the state of Connecticut. Within the relevant market, there are 22 financial institutions holding total deposits of \$1.0 billion. CBT and Northern rank third and fourth, respectively. After consummation, CBT would remain the third largest with 14 percent of local market deposits. The market is, at most, very slightly concentrated and competition is intense. Further mitigating any adverse effects on competition in the market is the number of financial

institutions in Springfield, Massachusetts, located less than 10 miles from the market. Included in the Springfield financial institutions are offices of the four largest commercial banking organizations in Massachusetts. Although the merger eliminates some direct competition and increases concentration to some extent, it would not have a significantly adverse effect upon competition in the relevant geographic market.

The Bank Merger Act requires this Office to consider ". . . the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served." We find the financial and managerial resources of CBT and Northern to be satisfactory. The future prospects of the proponents, individually and combined, are favorable, although the larger resulting bank is expected to provide a wider range of banking services.

A review of the record of this application and the other information available to this Office as a result of its regulatory responsibilities revealed no evidence that the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

January 8, 1985

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

*Asset figures are from the December 31, 1984, report of condition. Information as of date of consummation was not available at press time.

FIRST NATIONAL BANK IN EADS,
Eads, Colo. and OMNIBANK of Kiowa County, National Association, Eads, Colo.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
First National Bank in Eads, Eads, Colo. (14213), with	\$17,547,000	1	_____
was purchased February 14, 1985, by OMNIBANK of Kiowa County, National Association, Eads, Colo. (20836), which had	1,000,000	0	_____
After the purchase was effected the receiving bank had		_____	1

COMPTROLLER'S DECISION

On February 14, 1985, application was made to the Comptroller of the Currency to grant prior written approval for OMNIBANK of Kiowa County, National Association (Assuming Bank), to purchase certain assets and assume certain liabilities of the First National Bank in Eads, Eads, Colo. (First National). The application rests upon an agreement, incorporated herein by reference the same as if fully set forth, negotiated between the Assuming Bank and the Federal Deposit Insurance Corporation (FDIC) as receiver of First National. For reasons set forth below, the application is hereby approved and the Assuming Bank is authorized to consummate the purchase and assumption transaction immediately.

On February 14, 1985, due to the financial condition of First National, the Comptroller closed First National and appointed the FDIC receiver. The Comptroller has now been asked to grant his written approval of the proposed agreement negotiated between the FDIC and Assuming Bank by which the latter would purchase certain assets and assume certain liabilities, including deposit liabilities of First National.

Under the Bank Merger Act, 12 U.S.C. 1828(c), the Comptroller cannot approve a purchase and assumption transaction which would have certain proscribed anticompetitive effects unless he finds these anticompetitive effects to be clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served. Additionally, the Comptroller is directed to consider the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served. When necessary, however, to prevent the evils attendant upon the failure of a bank, the Comptroller can dispense with the standards applicable to usual acquisition trans-

actions and need not consider reports on the competitive effects of the transaction ordinarily solicited from the Department of Justice and other banking agencies. He is authorized in such circumstances to act immediately in his sole discretion to approve such a transaction and to authorize its immediate consummation.

The proposed acquisition will be in accord with all pertinent provisions of the National Bank Act and will prevent a disruption of banking services to the Eads community. Assuming Bank has sufficient financial resources, and this acquisition will enable it to enhance the banking services offered in the Eads community.

The Comptroller finds that the anticompetitive effects of the proposed transaction, if any, are clearly outweighed in the public interest by the probable effect of the proposed transaction in meeting the convenience and needs of the community to be served. For these reasons, the Assuming Bank's application to assume certain liabilities and purchase certain assets of First National, as set forth in the agreement, is approved. The Comptroller further finds that the failure of First National requires him to act immediately, as contemplated by the Bank Merger Act, to prevent disruption of banking services to the community; and the Comptroller thus waives publication of notice, dispenses with solicitation of competitive reports from other agencies, and authorizes the transaction to be consummated immediately.

By accepting approval and by consummating the purchase and assumption transaction, Assuming Bank agrees to be bound by the following conditions.

- 1. An initial minimum ratio of primary capital to total assets of no less than five percent (5%). The amount of intangible assets which may be included in capital for purposes of this assessment is limited to not more than twenty five percent (25%) of tangible primary capital.

*Source: FDIC report of condition of First National Bank in Eads, Eads, Colo. for the quarter ended December 31, 1984. Report of condition of OMNIBANK of Kiowa County, National Association, Eads, Colo. for the quarter ended December 31, 1984. Information for the quarter ending December 31, 1984 was not available.

2. Achieve within two (2) years and thereafter maintain a ratio of primary capital to total assets that complies with the Comptroller's minimum capital adequacy guidelines.

These conditions shall be deemed to be "conditions imposed in writing by the agency in connection with

the granting of any application or other request" within the meaning of 12 U.S.C. §1818(b)(1)

February 14, 1985

Due to the emergency nature of the situation, a report from the Attorney General was not requested

* * *

**DOMINION BANK OF RICHMOND, NATIONAL ASSOCIATION,
Richmond, Va., and Dominion Bank of Fredericksburg, National Association, Fredericksburg, Va.**

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
Dominion Bank of Richmond, National Association, Richmond Va. (15530), with	\$304,298,000	19	—
and Dominion Bank of Fredericksburg, National Association, Fredericksburg, Va. (16528), which had	28,912,000	3	—
merged February 16, 1985, under charter and title of the former. The merged bank at date of merger had.		—	22

No decision was issued.

A copy of the Attorney General's report was not available at press time.

*Asset figures are from the December 31, 1984, report of condition. Information as of date of consummation was not available at press time.

* * *

**URBAN NATIONAL BANK,
Franklin Lakes, N.J., and One Branch of United Jersey Bank, Hackensack, N.J.**

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
One Branch of United Jersey Bank, Hackensack, N.J., with	\$2,695,672,000	1	—
was purchased February 16, 1985, by Urban National Bank, Franklin Lakes, N.J. (15035), which had	120,820,000	6	—
After the purchase was effected the resulting bank had.		—	7

COMPTROLLER'S DECISION

An application was filed on September 17, 1984, with the Office of the Comptroller of the Currency by Urban National Bank, Franklin Lakes, N.J. (Urban), to purchase the assets and assume the liabilities of the Ringwood Plaza branch of United Jersey Bank, Hackensack, N.J. (United). The application is based upon a written agreement executed by the banks on July 5, 1984.

*Asset figures are for the entire bank from the December 31, 1984 report of condition. Information as of date of consummation was not available at press time.

As of June 30, 1984, Urban, an independent bank, held total deposits of \$98 million and operated five offices in Bergen County and one office in Passaic County. As of the same date, United's Ringwood Plaza branch, located in the northeastern corner of Passaic County, had total deposits of \$14 million.

The relevant geographic market for this proposal is Ringwood, the area from which United's Ringwood Plaza branch derives the bulk of its deposits. Urban does not have any offices in Ringwood and its closest office is seven miles distant. Nevertheless, Urban

2008 derive approximately \$1 million in deposits from Ringwood. With Ringwood, there are four financial institutions, including an office of the state's largest commercial banking organization, holding total deposits of \$48 million. United's Ringwood Plaza branch is the third largest in light of Urban's nominal share of market deposits. Consummation of the proposed acquisition will, in effect, merely substitute one competitor in the market for another and therefore it will not have a significant effect on competition in Ringwood.

The Bank Merger Act requires this Office to consider "the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served." The financial and managerial resources of both banks are satisfactory. The future prospects of the buying bank are considered favorable, as are the expected effects of the proposal on the convenience and needs of the community to be served.

A review of the record of this application and other

information available to this Office as a result of its regulatory responsibilities, revealed no evidence that the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

November 28, 1984

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

BARNETT BANK OF SOUTH FLORIDA, NATIONAL ASSOCIATION, Miami, Fla., and Florida Coast Bank, Pompano Beach, Fla.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Florida Coast Bank, Pompano Beach, Fla., with	\$ 421,785,000	12	_____
was purchased February 22, 1985, by Barnett Bank of South Florida, National Association, Miami, Fla. (16367), which had	2,731,482,000	43	_____
After the purchase was effected, the receiving bank had	3,128,052,000	_____	55

No decision was issued.

A copy of the Attorney General's report was not received.

* * *

BARNETT BANKS TRUST COMPANY, NATIONAL ASSOCIATION, Jacksonville, Fla. and Florida Coast Bank, Pompano Beach, Fla.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Barnett Banks Trust Company, National Association, Jacksonville, Fla. (16367), with	\$49,070,000	1	_____
and Florida Coast Bank, Pompano Beach, Fla., which had	0	0	_____
consolidated February 22, 1985, under the charter and title of the former. The consolidated bank at date of consolidation had	49,070,000	_____	1

No decision was issued. The transaction only involved the purchase of Florida Coast Bank.

A copy of the Attorney General's report was not available at press time.

* * *

NCNB NATIONAL BANK OF FLORIDA,
Tampa, Fla., and NCNB National Bank of Florida, Tallahassee, Fla.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
NCNB National Bank of Florida, Tampa, Fla. (17775), with	\$4,587,742,000	140	_____
and NCNB National Bank of Florida, Tallahassee, Fla. (15206), which had	23,807,000	1	_____
merged February 22, 1985, under the charter and title of the former. The merged bank at date of merger had	4,601,342,000	_____	141

No decision was issued.

A copy of the Attorney General's report was not available at press time.

* * *

CENTRAL INDIANA BANK, N.A.,
Fairland, Ind., and The State Bank of Waldron, Waldron, Ind., and Shelby Service Bank, National Association, Fairland, Ind.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
The State Bank of Waldron, Waldron, Ind., with	\$39,887,000	3	_____
and Central Indiana Bank, N.A., Fairland, Ind. (8337), with	49,765,000	3	_____
and Shelby Service Bank, National Association, Fairland, Ind. (8337), which had	120,000	0	_____
merged February 25, 1985, under charter of Shelby Service Bank, National Association and title of "Central Indiana Bank, National Association." The merged bank at date of merger had . . .	89,653,000	_____	6

COMPTROLLER'S DECISION

On October 24, 1984, application was made to the Office of the Comptroller of the Currency to merge The State Bank of Waldron, Waldron, Ind. (State Bank) and Central Indiana Bank, National Association, Fairland, Ind. (National Bank), into Shelby Service Bank, National Association (Organizing), Fairland, Ind., under the charter of the latter and with the title of "Central Indiana Bank, National Association."

National Bank is the tenth largest of 14 commercial banks operating in Shelby County, Ohio. As of June 30, 1984, National Bank had approximately \$34 million in deposits and \$48 million in total assets. The bank operates a main office in Fairland, and two branches, one in Pleasantview and the other in Shelbyville. National Bank is a majority owned subsidiary of Central Indiana Bancorp, Inc., a one-bank holding company headquartered in Fairland. State Bank is the 11th largest commercial bank operating in Shelby County and is not affiliated with National Bank or its parent company. As of June 30, 1984, State Bank had approximately \$27 million in deposits and \$39 million in total assets. The bank operates a main office in Waldron, a branch in St. Paul, and a second branch in Shelbyville. Shelby Service Bank, National Association

is an interim bank being organized to facilitate the merger and the acquisition of the resultant bank by Central Indiana Bancorp, Inc. As such, it has no previous operating history. Since State Bank is not affiliated with National Bank or its parent company, the competitive effects of the proposal are assessed on the basis of the merger of the two operating banks.

Both National Bank and State Bank operate in Shelby County, Indiana which is located just to the southeast of Indianapolis. National Bank's service area consists of the northwestern corner of Shelby County including the towns of Wanamaker and Acton in southeastern Marion County. State Bank's service area consists of the southwestern corner of Shelby County including the Town of Greensburg in adjacent Decatur County

For the most part, the service areas of the two banks are separate and distinct, however, they are direct competitors to the extent that both maintain small branch offices in Shelbyville. An analysis of deposits by zip code indicates that the overlap of total service areas is not significant. Although some direct competition will be eliminated by the transaction, the proximity of the Indianapolis metropolitan banking market as

well as the level and intensity of competition in Shelby County, and Shelbyville in particular mitigates any anticompetitive effects. Accordingly, the merger will not be significantly adverse to competition.

The Bank Merger Act requires this Office to consider the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served. The financial and managerial resources and future prospects of both banks are considered satisfactory. The future prospects of the resulting bank appear favorable, as does its ability to further enhance its competitiveness in the market and serve the convenience and needs of its customers.

A review of the record of this application and other information available to this Office as a result of its

regulatory responsibilities revealed no evidence that the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

January 24, 1985

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

NORSTAR BANK OF THE HUDSON VALLEY, NATIONAL ASSOCIATION, Newburgh, N.Y., and Two Branches of Manufacturers Hanover Trust Company, New York, N.Y.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
Two Branches of Manufacturers Hanover Trust Company, New York, N.Y., with	\$62,426,652,000	2	_____
were purchased March 11, 1985, by Norstar Bank of the Hudson Valley, National Association, Newburgh, N.Y. (1106), which had	558,967,000	31	_____
After the purchase was effected the receiving bank had		_____	33

COMPTROLLER'S DECISION

On October 31, 1984, an application was filed with the Office of the Comptroller of the Currency for Norstar Bank of the Hudson Valley, National Association, Newburgh, N.Y. (Norstar), to purchase certain of the assets and assume the liabilities of two branches of Manufacturers Hanover Trust Company, New York, N.Y. (Manufacturers). The application was made pursuant to a Purchase and Sale Agreement finalized between Norstar and Manufacturers on October 9, 1984.

As of June 30, 1984, Norstar had total deposits of \$459 million. Norstar is a wholly owned subsidiary of Norstar Bancorp. As of March 31, 1984, Manufacturers held \$22.9 million in two branch offices: one at 325 Hudson Street, Cornwall on Hudson, New York (hereinafter, Cornwall branch) and one at 23 East Main

Street, Washingtonville, New York (hereinafter, Washingtonville branch).

The relevant market for this proposal is Orange County, in which both branches are located and from which over 85 percent of their deposits are generated. Norstar and Manufacturers compete directly throughout the county; Norstar with 13 branch offices and Manufacturers with 5 offices. Within the Orange County market, Norstar and Manufacturers rank second and fourth, respectively, among 14 commercial banking institutions.

Following the proposed transaction, Norstar's rank will remain unchanged while market share will increase from 19.5 percent to 21.7 percent. Direct competition between Norstar and Manufacturers would continue following the proposed purchase and assumption, through Manufacturers three remaining Orange County branch offices. Consequently, the proposed transaction will have no adverse effect on competition.

* Assets were quoted for information from the December 31, 1984 report. Additional information about date of information was not available at this time.

The Bank Merger Act requires this Office to consider "... the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served." The financial and managerial resources of both banks are considered satisfactory. Norstar operates an automated teller machine network in Orange County which would become available to customers of the Cornwall and Washington branches. Consequently, the future prospects of the resulting bank are favorable, as are the expected effects of the proposal on the convenience and needs of the community to be served.

A review of the record of this application and other information available to this Office as a result of its regulatory responsibilities revealed no evidence that

the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

January 8, 1985

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

WESTERN COMMUNITY BANK, NATIONAL ASSOCIATION,
Tacoma, Wash., and One Branch of North Pacific Bank, Tacoma, Wash.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
One Branch of North Pacific Bank, Tacoma, Wash., with	\$ 3,924,000	1	_____
was purchased March 11, 1985, by Western Community Bank, National Association, Tacoma, Wash. (17256), which had	38,897,000	4	_____
After the purchase was effected the receiving bank had	42,921,000	_____	5

COMPTROLLER'S DECISION

On December 4, 1984, application was made to the Office of the Comptroller of the Currency by Western Community Bank, National Association, Tacoma, Wash. (National Bank), to purchase certain of the assets and assume the liabilities of the Steilacoom Branch of North Pacific Bank, Tacoma, Wash. (Pacific Bank). The application is based upon an agreement entered into by the two banks on September 12, 1984.

As of September 30, 1984, National Bank had approximately \$25 million in total assets and \$31 million in total deposits. The bank operates a main office and three branches in the greater Tacoma area. As of the same date, Pacific Bank had approximately \$57 million in total assets and \$48 million in total deposits. Pacific Bank also operates a main office and three branches in the greater Tacoma area.

National Bank's service area consists of downtown Tacoma, Fircrest, and the unincorporated area of Lakewood, Washington. The service area of Pacific Bank's Steilacoom branch and the relevant geo-

graphic market for the proposal consists of the Town of Steilacoom and the immediately surrounding area.

In the Steilacoom area, National Bank and Pacific Bank are direct competitors. This proposal would result in the elimination of some direct competition; however, numerous banking alternatives are provided by five commercial banks and five savings banks operating a total of 15 offices. Furthermore, the Steilacoom area is adjacent to the City of Tacoma, and banking competition in the greater Tacoma area can be characterized as very intense. A total of 23 banks compete for more than \$18 billion in deposits in Tacoma. Driving distances and commuter patterns between the relevant geographic market and Tacoma are such that the services and products of banks in Tacoma are readily available. It is our view that any anticompetitive aspects of the proposal are mitigated by the presence of many banking alternatives in the Steilacoom area as well as the proximity of Tacoma. Accordingly, the proposal would not be significantly adverse to competition.

The Bank Merger Act requires this Office to consider the financial and managerial resources and future prospects of the existing and proposed institutions and the convenience and needs of the community to be served. The future prospects of the resulting bank appear favorable as does its ability to further enhance its competitiveness in the market and serve the convenience and needs of its customers.

A review of the record of this application and other information available to this Office as a result of its regulatory responsibilities revealed no evidence that the banks' records of helping to meet the credit needs of their entire communities, including low and moderate income neighborhoods, are less than satisfactory.

* * *

THE FIRST NATIONAL BANK OF DWIGHT,
Dwight, Ill., and The Taylor State Bank, Emington, Ill.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
The Taylor State Bank, Emington, Ill., with	\$ 4,497,000	1	_____
was purchased March 15, 1985, by The First National Bank of Dwight, Dwight, Ill. (8044), which had	49,998,000	1	_____
After the purchase was effected the receiving bank had	54,495,000	_____	2

COMPTROLLER'S DECISION

On March 15, 1985, application was made to the Comptroller of the Currency to grant prior written approval for The First National Bank of Dwight, Dwight, Ill. (Assuming Bank) to purchase certain assets and assume certain liabilities of The Taylor State Bank, Emington, Ill. (TSB). The application rests upon an agreement, incorporated herein by reference the same as if fully set forth, negotiated between the Assuming Bank and the Federal Deposit Insurance Corporation (FDIC) as receiver of Citizens. For reasons set forth below, the application is hereby approved and the Assuming Bank is authorized to consummate the purchase and assumption transaction immediately.

The bank was declared insolvent by the Illinois State Banking Commissioner on March 15, 1985, and was turned over in the hands of the FDIC as receiver. The Comptroller has now been asked to grant his written approval of the proposed agreement negotiated between the FDIC and Assuming Bank by which the

We have analyzed this proposal pursuant to the Bank Merger Act and find that it will not significantly lessen competition in the relevant market. Other factors considered in evaluating the proposal are satisfactory. Accordingly, the application is approved.

February 6, 1985

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

latter would purchase certain assets and assume certain liabilities of TSB.

Under the Bank Merger Act, 12 U.S.C. 1828(c), the Comptroller cannot approve a purchase and assumption transaction which would have certain proscribed anticompetitive effects unless he finds these anticompetitive effects to be clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served. Additionally, the Comptroller is directed to consider the financial and managerial resources and future prospects of the existing and proposed institutions, and the convenience and needs of the community to be served. When necessary, however, to prevent the evils attendant upon the failure of a bank, the Comptroller can dispense with the standards applicable to usual acquisition transactions and need not consider reports on the competitive effects of the transaction ordinarily solicited from the Department of Justice and other banking agencies. He is authorized in such circumstances to act immediately in his sole discretion to approve such a

transaction and to authorize its immediate consummation.

The proposed acquisition will be in accord with all pertinent provisions of the National Bank Act and will prevent a disruption of banking services to the Emington community. Assuming Bank has sufficient financial resources, and this acquisition will enable it to enhance the banking services offered in the Emington community.

The Comptroller finds that the anticompetitive effects of the proposed transaction, if any, are clearly outweighed in the public interest by the probable effect of the proposed transaction in meeting the convenience and needs of the community to be served. For these

reasons the Assuming Bank's application to assume certain liabilities and purchase certain assets of TSB as set forth in the agreement, is approved. The Comptroller further finds that the failure of TSB requires him to act immediately, as contemplated by the Bank Merger Act, to prevent disruption of banking services to the community; and the Comptroller thus waives publication of notice, dispenses with solicitation of competitive reports from other agencies, and authorizes the transaction to be consummated immediately.

March 15, 1985

Due to the emergency nature of the situation, a report from the Attorney General was not requested.

* * *

THE BOATMEN'S NATIONAL BANK OF SPRINGFIELD, Springfield, Mo., and CharterBank Springfield, N.A., Springfield, Mo.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
The Boatmen's National Bank of Springfield, Springfield, Mo. (5209), with	\$342,347,000	5	_____
and CharterBank Springfield, N.A., Springfield, Mo. (15183), which had	75,414,000	3	_____
merged March 18, 1985, under charter and title of the former. The merged bank at date of merger had.	417,282,000	_____	8

No decision was issued.

A copy of the Attorney General's report was not available at press time.

* * *

THE BOATMEN'S NATIONAL BANK OF ST. LOUIS, St. Louis, Mo., and CharterBank St. Louis, N.A., St. Louis, Mo.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
The Boatman's National Bank of St. Louis, St. Louis, Mo. (12916), with	\$1,248,665,000	4	_____
and CharterBank St. Louis, N.A., St. Louis, Mo. (13726), which had	214,750,000	3	_____
merged March 18, 1985, under charter and title of the former. The merged bank at date of merger had.	1,462,084,000	_____	7

No decision was issued.

A copy of the Attorney General's report was not available at press time

* * *

NCNB NATIONAL BANK OF FLORIDA,
Tampa, Fla. and NCNB National Bank of Florida, Cross City, Fla., and NCNB National Bank of Florida,
Gainesville, Fla. and NCNB National Bank of Florida, Live Oak, Fla.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
NCNB National Bank of Florida, Tampa, Fla. (17775), with	\$4,778,314,000	137	_____
and NCNB National Bank of Florida, Cross City, Fla. (18138), which had	21,753,000	3	_____
NCNB National Bank of Florida, Gainesville, Fla. (18139), which had	24,064,000	2	_____
NCNB National Bank of Florida, Live Oak, Fla. (18135), which had	42,184,000	2	_____
merged March 22, 1985, under the charter and title of the former. The merged bank at date of merger had	4,839,497,000	_____	144

No decision was issued

A copy of the Attorney General's report was not available at press time.

* * *

NBD NORTHWEST BANK, NATIONAL ASSOCIATION,
Traverse City, Mich., and NBD Northwest Bank, Kalkaska, Mich.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
NBD Northwest Bank, National Association, Traverse City, Mich. (18143) with	\$ 80,748,000	8	_____
and NBD Northwest Bank, Kalkaska, Mich. which had	36,505,000	2	_____
merged March 29, 1985, under the charter and title of the former. The merged bank at date of the merger had	117,253,000	_____	10

No decision was issued.

A copy of the Attorney General's report was not available at press time.

* * *

WILLIAMSBURG FIRST NATIONAL BANK,
Kingstree, S.C., and One Branch of The Citizens and Southern National Bank of S.C., Charleston, S.C.

Names of banks and type of transaction	Total assets*	Banking offices	
		In operation	To be operated
One Branch of The Citizens and Southern National Bank of S.C., Charleston, S.C. (14425), with was purchased March 30, 1985, by Williamsburg First National Bank, Kingstree, S.C. (15589), which had	\$2,367,416,000	1	_____
After the purchase was effected the receiving bank had	22,733,000	2	_____
		_____	3

COMPTROLLER'S DECISION

On December 4, 1984, an application was filed with

the Office of the Comptroller of the Currency for Williamsburg First National Bank, Kingstree, S.C. (FNB), to purchase the assets and assume the liabilities of the Hemingway branch office of The Citizens and Southern National Bank of S.C., Charleston,

S.C. (C&S). This application was made pursuant to a Purchase Agreement finalized between FNB and C&S on October 9, 1984.

As of September 30, 1984, FNB held total deposits of \$18.3 million in two offices, both situated in Kingstree. As of the same date, the Hemingway branch office of C&S held total deposits of \$4.6 million.

The relevant geographic market for this proposal is the Town of Hemingway and immediate environs. Hemingway is located in the northeast corner of Williamsburg County, in a rural area primarily devoted to agriculture and small manufacturing concerns. The C&S branch derives all of its deposits from this market, and has an 11 percent market share of commercial bank deposits. There is only one other commercial bank operating in the market. In addition, there is one S&L in Hemingway.

FNB does not operate in the relevant market. Kingstree, the county seat of Williamsburg County, is located approximately 25 miles southwest of Hemingway. FNB derives no deposits from the relevant market area. This proposal represents market extension for FNB, and would simply replace one competitor in the market with another.

The Bank Merger Act requires this Office to consider "... the financial and managerial resources and future prospects of the existing and proposed institutions

and the convenience and needs of the community to be served." The financial and managerial resources of both banks are considered satisfactory. Consummation of the proposal will provide the Hemingway market with the services of a commercial banking institution with established operations in the county seat. Consequently, the future prospects of the resulting bank are favorable, as are the expected effects of the proposal on the convenience and needs of the community to be served.

A review of the record of this application and other information available to this Office as a result of its regulatory responsibilities revealed no evidence that the applicants' records of helping to meet the credit needs of their communities, including low and moderate income neighborhoods, are less than satisfactory.

We have reviewed this proposal pursuant to the Bank Merger Act and find that it does not significantly lessen competition in the relevant market. Other factors considered in evaluating this proposal are satisfactory. Accordingly, the application is approved.

February 15, 1985

SUMMARY OF REPORT BY ATTORNEY GENERAL

We have reviewed this proposed transaction and conclude that it would not have a significantly adverse effect on competition.

* * *

II Mergers consummated involving a single operating bank.

Because of space limitations, the *Quarterly Journal* will no longer carry the Comptroller's Decision or the Summary of Report by Attorney General for transactions involving a single operating bank if the standard text below is used. The OGC has implemented new procedures for processing corporate reorganization transactions. Some of these mergers were approved under the new procedures and no decision was issued.

COMPTROLLER'S DECISION

*** Bank is being organized by ***, a bank holding company. The merger of *** Bank into *** (organizing) Bank is a part of a process whereby *** (holding company), will acquire 100 percent (less directors' qualifying shares) of *** Bank. The merger is a vehicle for a bank holding company acquisition and combines a non-operating bank with an existing commercial bank. As such, it presents no competitive issues under the Bank Merger Act, 12 USC 1828(c).

The financial and managerial resources of both proponents and the future prospects of the resulting bank are favorable. After the merger, the resulting bank will be in the position to draw on the financial and managerial resources of its new corporate parent. This will permit it to more effectively serve the convenience and needs of its community.

A review of the record of this application and other information available to this Office as a result of its

regulatory responsibilities revealed no evidence that the applicant's record of helping to meet the credit needs of the entire community, including low and moderate income neighborhoods, is less than satisfactory.

This decision is the prior written approval required by the Bank Merger Act for the applicants to proceed with the proposed merger.

SUMMARY OF REPORT BY ATTORNEY GENERAL

The proposed merger is part of a plan through which the *** Bank would become a subsidiary of ***, a bank holding company. The instant transaction would merely combine an existing bank with a non-operating institution; as such, and without regard to the acquisition of the surviving bank by *** (holding company), it would have no effect on competition.

AUBURN NATIONAL BANK OF AUBURN, Auburn, Ala., and Auburn National Interim Bank, Auburn, Ala.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Auburn National Bank of Auburn, Auburn, Ala. (15339), with	\$71,202,000	2	_____
and Auburn National Interim Bank, Auburn, Ala. (15539), which had	120,000	0	_____
merged January 1, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had	71,322,000	_____	2

* * *

THE FACTORY POINT NATIONAL BANK OF MANCHESTER CENTER, VERMONT,
Manchester Center, Vt., and New Factory Point Bank, N.A., Manchester Center, Vt.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
The Factory Point National Bank of Manchester Center, Vermont, Manchester Center, Vt. (3080), with	\$68,560,000	4	_____
and New Factory Point Bank, N.A., Manchester Center, Vt. (3080), which had	60,000	0	_____
merged January 1, 1985, under charter of the latter and title of the former. The merged bank at date of merger had	68,560,000	_____	4

* * *

FIRST NATIONAL BANK,
Reidsville, N.C., and FNB National Bank, Reidsville, N.C.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
First National Bank, Reidsville, N.C. (11229), with.	\$80,492,000	3	_____
and FNB National Bank, Reidsville, N.C. (11229), which had	120,000	0	_____
consolidated January 1, 1985, under the charter and title of the former. The consolidated bank at date of consolidation had	80,612,000	_____	3

* * *

GARRETT NATIONAL BANK IN OAKLAND,
Oakland, Md., and Garrett National Bank, Oakland, Md.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Garrett National Bank in Oakland, Oakland, Md. (13776), with.	\$93,386,000	10	_____
and Garrett National Bank, Oakland, Md. (13776), which had	120,000	0	_____
merged January 1, 1985, under charter of the latter and title of the former. The merged bank at date of merger had	93,386,000	_____	10

* * *

THE RONCEVERTE NATIONAL BANK,
Fairlea, W.Va., and Ronceverte Interim National Bank, Fairlea, W.Va.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
The Ronceverte National Bank, Fairlea, W.Va. (6226), with	\$47,870,000	1	_____
and Ronceverte Interim National Bank, Fairlea, W.Va. (6226), which had	120,000	0	_____
merged January 1, 1985, under the charger of the latter and title of "Seneca National Bank." The merged bank at date of merger had.	47,870,000	_____	1

* * *

CAMDEN NATIONAL BANK

Camden, Me. and Camden Interim National Bank, Camden, Me.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Camden National Bank, Camden, Me. (2311), with	\$83,914,000	5	
and Camden Interim National Bank, Camden, Me. (2311), which had	120,000	0	
merged January 2, 1985, under charter of the latter and title of the former. The merged bank at date of merger had	83,914,000		5

* * *

THE FIRST NATIONAL BANK OF SPENCER, Spencer, W.Va., and West Central National Bank, Spencer, W.Va.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
The First National Bank of Spencer, Spencer, W.Va. (10127), with	\$50,260,000	1	
and West Central National Bank, Spencer, W.Va. (20707), which had	120,000	0	
merged January 2, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had	50,260,000		1

* * *

STONEWALL NATIONAL BANK, Weston, W.Va., and Stonewall Jackson National Bank, Weston, W.Va.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Stonewall National Bank, Weston, W.Va., (16761), with	\$46,685,000	1	
and Stonewall Jackson National Bank, Weston, W.Va. (20692), which had	120,000	0	
merged January 2, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had	46,685,000		1

* * *

SUFFOLK COUNTY NATIONAL BANK OF RIVERHEAD, Riverhead, N.Y., and Suffolk Interim National Bank, Riverhead, N.Y.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Suffolk County National Bank of Riverhead, Riverhead, N.Y. (4230), with	\$238,925,000	6	
and Suffolk Interim National Bank, Riverhead, N.Y. (4230), which had	120,000	0	
merged January 2, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had	238,935,000		6

* * *

THE NANTICOKE NATIONAL BANK,
Nanticoke, Pa., and NNB National Bank, Nanticoke, Pa.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
The Nanticoke National Bank, Nanticoke, Pa. (7406), with	\$44,015,000	1	_____
and NNB National Bank, Nanticoke, Pa. (7406), which had	60,000	0	_____
merged January 8, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had.	44,015,000	_____	1

* * *

DIXON NATIONAL BANK,
Dixon, Ill., and DNB Bank, National Association, Dixon, Ill.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Dixon National Bank, Dixon, Ill. (1881) with	\$154,271,000	2	_____
and DNB Bank, National Association, Dixon, Ill. (1881) which had	120,000	0	_____
merged January 10, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had.	154,241,000	_____	2
The resulting bank is a subsidiary of Dixon Bancorp. Inc., Dixon, Ill.			

* * *

THE FIRST-KNOX NATIONAL BANK OF MT. VERNON,
Mt. Vernon, Ohio and FD Interim, National Association, Mt. Vernon, Ohio

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
The First-Knox National Bank of Mt. Vernon, Mt. Vernon, Ohio (7638) with	\$175,334,000	6	_____
and FK Interim, National Association, Mt. Vernon, Ohio (7638) which had	120,000	0	_____
merged January 19, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had.	175,334,000	_____	6
The resulting bank is a subsidiary of First-Knox Banc Corp., Mt. Vernon, Ohio.			

* * *

EDGEWATER NATIONAL BANK,
Englewood Cliffs, N.J., and Edgewater Interim National Bank, Englewood Cliffs, N.J.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Edgewater National Bank, Englewood Cliffs, N.J. (13893), with	\$126,170,000	4	_____
and Edgewater Interim National Bank, Englewood Cliffs, N.J. (13893), which had	60,000	0	_____
merged January 31, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had.	126,170,000	_____	4

* * *

FIRST NATIONAL BANK IN MARION
Marion, Ind. and Grant National Bank, Marion, Ind.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
First National Bank in Marion, Marion, Ind. (13717) with	\$112,826,000	5	_____
and Grant National Bank, Marion, Ind. (13717) which had	120,000	0	_____
merged on January 31, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had	112,826,000	_____	5
The resulting bank is a subsidiary of Marion Bancorp, Inc., Marion, Ind.			

* * *

NATIONAL BANK OF COMMERCE,
Washington, D.C., and Commerce Bank, N.A., Washington, D.C.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
National Bank of Commerce, Washington, D.C. (15127), with	\$55,930,000	3	_____
and Commerce Bank, N.A., Washington, D.C. (15127), which had	240,000	0	_____
merged January 31, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had.	55,930,000	_____	3

* * *

VAN WERT NATIONAL BANK,
Van Wert, Ohio, and Van Wert Interim National Bank, Van Wert, Ohio

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Van Wert National Bank, Van Wert, Ohio (13797) with	\$84,282,000	3	_____
and Van Wert Interim National Association, Van Wert, Ohio (13797) which had	120,000	0	_____
merged January 31, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had.	84,282,000	_____	3
The resulting bank is a subsidiary of NB Banc Corp, Van Wert, Ohio.			

* * *

THE FARMERS NATIONAL BANK OF OPELIKA,
Opelika, Ala., and Farmers National Interim Bank, Opelika, Ala.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
The Farmers National Bank of Opelika, Opelika, Ala. (9550), with	\$68,592,000	2	_____
and Farmers National Interim Bank, Opelika, Ala. (9550), which had	120,000	0	_____
merged February 1, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had	68,592,000	_____	2

* * *

FIRST NATIONAL BANK OF OKALOOSA COUNTY,
Ft. Walton Beach, Fla. and New First National Bank of Okaloosa County, Ft. Walton Beach, Fla.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
First National Bank of Okaloosa County, Ft. Walton Beach, Fla. (14775), with	\$131,931,000	6	_____
and New First National Bank of Okaloosa County, Ft. Walton Beach, Fla. (14775), which had	120,000	0	_____
consolidated February 1, 1985, under the charter and title of the former. The consolidated bank at date of consolidation had	133,531,000	_____	6

* * *

THE OCEAN NATIONAL BANK OF KENNEBUNK,
Kennebunk, Me., and New Ocean National Bank, Kennebunk, Me.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
The Ocean National Bank of Kennebunk, Kennebunk, Me. (1254), with	\$48,532,000	5	_____
and New Ocean National Bank, Kennebunk, Me. (1254), which had	120,000	0	_____
merged February 1, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had.	48,532,000	_____	5

* * *

EMPIRE NATIONAL BANK OF CLARKSBURG,
Clarksburg, W.Va., and ENB Interim National Bank, Clarksburg, W.Va.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Empire National Bank of Clarksburg, Clarksburg, W.Va. (7029), with	\$94,561,000	1	_____
and ENB Interim National Bank, Clarksburg, W.Va. (20707), which had	120,000	0	_____
merged March 1, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had.	94,561,000	_____	1

* * *

NATIONAL BANK OF COMMERCE OF DERIDDER,
DeRidder, La., and DeRidder National Bank, DeRidder, La.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
National Bank of Commerce of DeRidder, DeRidder, La. (16732), with	\$29,658,000	1	_____
and DeRidder National Bank, DeRidder, La. (16732), which had	120,000	0	_____
merged March 1, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had.	29,658,000	_____	1

* * *

NATIONAL STATE BANK ELIZABETH, N.J.,
Elizabeth, N.J., and Constellation Bank, National Association, Elizabeth, N.J.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
National State Bank, Elizabeth, N.J., Elizabeth, N.J. (1436), with	\$1,282,200,000	55	_____
and Constellation Bank, National Association, Elizabeth, N.J. (1436), which had	240,000	0	_____
merged March 8, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had	1,282,200,000	_____	55

* * *

CITIZENS NATIONAL BANK,
Crockett, Tex., and New Citizens National Bank, Crockett, Tex.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
Citizens National Bank, Crockett, Tex. (17456), with	\$20,205,000	1	_____
and New Citizens National Bank, Crockett, Tex. (17456), which had	120,000	0	_____
consolidated March 18, 1985, under charter and title of the former. The consolidated bank at date of consolidation had	\$20,205,000	_____	1

* * *

NATIONAL BANK OF PETERSBURG,
Petersburg, Ill., and NBP National Bank, Petersburg, Ill.

Names of banks and type of transaction	Total assets	Banking offices	
		In operation	To be operated
National Bank of Petersburg, Petersburg, Ill. (14607) with	\$59,677,000	1	_____
and NBP National Bank, Petersburg, Ill. (14607) which had	60,000	0	_____
merged on March 31, 1985, under the charter of the latter and title of the former. The merged bank at date of merger had	59,677,000	_____	1
The resulting bank is a subsidiary of NBP Financial Services, Inc., Petersburg, Ill.			

* * *

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Changes in the structure of the national banking system, by states, calendar 1984

	<i>In operation Dec 31, 1983</i>	<i>Organized and opened for business</i>	<i>Consolidated and merged under 12 USC 215</i>		<i>Insol- vencies</i>	<i>Liqui- dated</i>	<i>12 USC 214</i>		<i>In operation Dec 31 1984</i>
			<i>Consoli- dated</i>	<i>Merged</i>			<i>Converted to state banks</i>	<i>Merged or consolidated with state banks</i>	
United States	4,757	302	4	93	1	17*	10	24	4,910
Alabama	77	2	0	1	0	0	3	0	75
Alaska	6	0	0	0	0	0	0	0	6
Arizona	5	5	0	0	0	0	0	0	10
Arkansas	73	5	0	0	1	0	0	0	77
California	134	27	0	1	0	1	1	0	158
Colorado	208	21	0	0	0	0	0	0	229
Connecticut	14	0	0	0	0	0	0	0	14
Delaware	14	0	0	0	0	0	0	0	14
District of Columbia	18	0	0	0	0	0	0	0	18
Florida	197	26	0	32	0	2	1	1	187
Georgia	59	0	1	3	0	0	0	0	55
Hawaii	3	0	0	0	0	0	0	0	3
Idaho	7	0	0	0	0	0	0	0	7
Illinois	402	4	0	0	0	0	0	2	404
Indiana	114	0	0	0	0	1	0	2	111
Iowa	100	8	0	0	0	1	0	1	106
Kansas	156	10	0	0	0	1	0	0	165
Kentucky	77	2	0	0	0	0	0	0	79
Louisiana	60	7	0	0	0	0	0	0	67
Maine	9	1	0	0	0	0	0	1	9
Maryland	25	1	0	1	0	0	0	0	25
Massachusetts	66	0	0	1	0	1	0	0	64
Michigan	124	1	0	2	0	1	1	2	119
Minnesota	202	2	3	0	0	2	0	0	199
Mississippi	34	1	0	0	0	0	0	1	34
Missouri	124	6	0	2	0	0	0	2	126
Montana	54	0	0	0	0	0	0	0	54
Nebraska	122	2	0	0	0	1	0	0	123
Nevada	5	0	0	0	0	0	0	0	5
New Hampshire	30	0	0	2	0	0	1	0	27
New Jersey	79	1	0	8	0	1	0	0	71
New Mexico	43	1	0	0	0	0	0	0	44
New York	108	4	0	2	0	1	0	2	107
North Carolina	20	0	0	3	0	0	0	0	17
North Dakota	40	0	0	0	0	0	0	0	40
Ohio	159	1	0	9	0	0	0	1	150
Oklahoma	211	19	0	0	0	1	0	0	229
Oregon	7	0	0	0	0	0	0	0	7
Pennsylvania	197	4	0	1	0	0	2	3	195
Rhode Island	5	0	0	1	0	0	0	0	4
South Carolina	17	2	0	1	0	0	0	0	18
South Dakota	29	0	0	4	0	0	0	0	25
Tennessee	69	2	0	10	0	0	0	1	60
Texas	880	123	0	2	0	3	0	0	998
Utah	7	1	0	1	0	0	0	0	7
Vermont	11	1	0	0	0	0	0	0	12
Virginia	55	1	0	2	0	0	1	3	50
Washington	23	1	0	0	0	0	0	0	24
West Virginia	102	3	0	3	0	0	0	1	101
Wisconsin	124	0	0	0	0	0	0	1	123
Wyoming	52	7	0	1	0	0	0	0	58

NOTE Does not include one nonnational bank in the District of Columbia

* Includes a 1983 transaction received after closing the 1983 count

Assets, liabilities and capital accounts of national banks, December 31, 1983, and December 31, 1984
(Dollar amounts in millions)

	December 31 1983 4 751 banks	December 31 1984 4 899 banks*	Change December 31 1984 December 31 1983 Fully collateralized
Assets			
Cash and balances due from depository institutions			
Noninterest-bearing balances and currency and coin			
Interest-bearing balances			
Securities			
Federal funds sold and securities purchased under agreements to resell			
Loans and leases, net of unearned income			
Less allowance for loan and lease losses			
Less allocated transfer risk reserve			
Net loans and leases			
Premises and fixed assets			
Other real estate owned			
Other assets			
Total assets			
Liabilities			
Noninterest-bearing deposits in domestic offices			
Interest-bearing deposits in domestic offices			
Total domestic deposits			
Noninterest-bearing deposits in foreign offices			
Interest-bearing deposits in foreign offices			
Total foreign deposits			
Total deposits			
Federal funds purchased and securities sold under agreements to repurchase			
Interest-bearing demand notes issued to the U.S. Treasury			
Other liabilities for borrowed money			
Mortgage indebtedness and liability for capitalized leases			
Subordinated notes and debentures			
All other liabilities			
Total liabilities			
Limited-life preferred stock			
Equity Capital			
Perpetual preferred stock			
Common stock			
Surplus			
Undivided profits and capital reserves			
Cumulative foreign currency translation adjustments			
Total equity capital			
Total liabilities, limited-life preferred stock, and equity capital			

*Does not include five national noninsured trust companies and five national banks that did not report

*Income and expenses of foreign and domestic offices and subsidiaries of national banks,
year ended December 31, 1984
(Dollar amounts in millions)*

	4 899 banks*	
	Consolidated foreign and domestic	Percent distribution
Interest income.		
Interest and fee income on loans	\$111,520	74.3
Income from lease financing receivables	1,527	1.0
Interest income on balances due from depository institutions	10,543	7.0
Interest and dividend income on securities	18,802	12.5
Interest income from assets held in trading accounts	1,440	1.0
Interest income from federal funds sold and securities purchased under agreements to resell	6,222	4.1
<i>Total interest income</i>	150,054	100.0
Interest expense.		
Interest on deposits	83,037	81.0
Expense of federal funds purchased and securities sold under agreements to repurchase	13,196	12.9
Interest on demand notes issued to the U.S. Treasury and on other borrowed money	5,545	5.4
Interest on mortgage indebtedness and obligations under capitalized leases	239	.2
Interest on notes and debentures subordinated to deposits	445	.4
<i>Total interest expense</i>	102,462	100.0
Net interest income	47,592	
Provision for loan and lease losses	9,031	
Provision for allocated transfer risk	35	
Noninterest income.		
Service charges on deposit accounts	3,766	21.6
Other noninterest income	13,646	78.4
<i>Total noninterest income</i>	17,412	100.0
Gains and losses on securities not held in trading accounts	(132)	
Noninterest expense.		
Salaries and employee benefits	22,021	49.3
Expenses of premises and fixed assets (net of rental income)	7,135	16.0
Other noninterest expense	15,534	34.8
<i>Total noninterest expense</i>	44,690	100.0
Income (loss) before income taxes and extraordinary items and other adjustments	11,116	
Applicable income taxes	2,825	
Income before extraordinary items and other adjustments	8,291	
Extraordinary items and adjustments, net of taxes	133	
Net income	8,424	
Total cash dividends declared	4,248	
Recoveries credited to allowance for possible loan losses	1,155	
Losses charged to allowance for possible loan losses	7,824	
Net loan losses	6,669	
Ratio to total operating income.		
Interest on deposits	49.6	
Other interest expense	11.6	
Salaries and employee benefits	13.2	
Other noninterest expense	13.5	
Total operating expenses	87.9	
Ratio of net income (annualized) to:		
Total assets (end of period)	56	
Total equity capital	9.6	

* Excludes five national noninsured trust companies and five national banks that did not report

Consolidated foreign and domestic assets, liabilities and capital accounts of national banks, by states, December 31, 1984

(Dollar amounts in millions)

	Total United States	Alabama	Alaska	Arizona	Arkansas	California	Colorado
Assets							
Assets due from depository institutions							
Noninterest-bearing balances and currency and coin							
Interest-bearing balances							
Assets purchased under agreements to resell							
Loans and leases net of unearned income							
Loss allowance for loan and lease losses							
Loss allocated transfer risk reserve							
Net gains and losses							
Real estate and fixed assets							
Other real estate owned							
Other assets							
Total assets							
Liabilities							
Noninterest-bearing deposits in domestic offices							
Interest-bearing deposits in domestic offices							
Total domestic deposits							
Noninterest-bearing deposits in foreign offices							
Interest-bearing deposits in foreign offices							
Total foreign deposits							
Total deposits							
Federal funds purchased and securities sold under agreements to repurchase							
Interest-bearing demand notes issued to U.S. Treasury							
Other liabilities for borrowed money							
Mortgage indebtedness and liability for capitalized leases							
Subordinated notes and debentures							
All other liabilities							
Total liabilities							
Limited-life preferred stock							
Equity Capital							
Perpetual preferred stock							
Common stock							
Surplus							
Undivided profits and capital reserves							
Cumulative foreign currency translation adjustments							
Total equity capital							
Total liabilities, limited-life preferred stock, and equity capital							
Number of banks with foreign offices							

See notes at end of table

Consolidated foreign and domestic assets, liabilities and capital accounts of national banks, by states, December 31, 1984—continued

(Dollar amounts in millions)

	Connecticut	Delaware	Dist. of Col.	Florida	Georgia	Hawaii	Idaho
Number of banks	14	14	18	182	55	3	7
Assets							
Cash and balances due from depository institutions	\$ 1,551	\$ 88	\$ 1,009	\$ 5,192	\$ 2,507	\$ 19	\$ 406
Noninterest-bearing balances and currency and coin	943	52	1,703	1,515	1,430	1	117
Interest-bearing balances	2,283	224	2,858	10,143	3,099	38	868
Securities	366	99	489	3,425	578	20	293
Federal funds sold and securities purchased under agreements to resell							
Loans and leases, net of unearned income	7,873	5,594	7,205	31,326	13,278	103	3,493
Less allowance for loan and lease losses	79	102	120	360	170	1	37
Less allocated transfer risk reserve	1	0	1	—	0	0	0
Net loans and leases	7,793	5,492	7,084	30,966	13,108	102	3,456
Premises and fixed assets	211	36	175	1,372	404	3	97
Other real estate owned	17	1	17	67	28	—	32
Other assets	327	102	495	1,518	1,192	3	129
Total assets	13,491	6,094	13,830	54,198	22,346	186	5,398
Liabilities							
Noninterest-bearing deposits in domestic offices	3,652	188	2,657	11,874	5,707	45	760
Interest-bearing deposits in domestic offices	6,297	2,079	6,436	32,953	10,230	122	3,718
Total domestic deposits	9,949	2,267	9,093	44,827	15,937	167	4,478
Noninterest-bearing deposits in foreign offices	7	0	6	13	38	0	0
Interest-bearing deposits in foreign offices	508	4	2,131	706	849	0	0
Total foreign deposits	515	4	2,137	719	887	0	0
Total deposits	10,464	2,271	11,230	45,546	16,824	167	4,478
Federal funds purchased and securities sold under agreements to repurchase	1,837	952	1,054	3,945	2,744	—	368
Interest-bearing demand notes issued to U.S. Treasury	176	2	78	167	17	1	30
Other liabilities for borrowed money	78	2,231	280	276	150	0	29
Mortgage indebtedness and liability for capitalized leases	9	3	11	53	22	1	6
Subordinated notes and debentures	11	0	91	77	223	2	23
All other liabilities	223	177	361	852	1,150	2	135
Total liabilities	12,798	5,636	13,105	50,916	21,130	173	5,069
Limited-life preferred stock	0	0	0	0	0	0	0
Equity Capital							
Perpetual preferred stock	—	13	0	—	0	1	0
Common stock	103	104	77	611	188	7	44
Surplus	249	219	173	1,401	343	3	188
Undivided profits and capital reserves	341	122	475	1,270	685	2	97
Cumulative foreign currency translation adjustments	0	0	—	0	0	0	0
Total equity capital	693	458	725	3,282	1,216	13	329
Total liabilities, limited-life preferred stock, and equity capital	13,491	6,094	13,830	54,198	22,346	186	5,398
Number of banks with foreign offices	2	1	7	16	4	0	0

See notes at end of table

Consolidated foreign and domestic assets, liabilities and capital accounts of national banks, December 31, 1984 continued

(Dollar amounts in millions)

	Illinois	Indiana	Iowa	Kansas	Kentucky	Louisiana	Mississippi
Assets	404	111	106	165	79	67	14
Cash and cash equivalents due from depository institutions	\$ 6,027	\$ 2,021	\$ 851	\$ 877	\$ 1,100	\$ 1,509	\$ 721
Notes receivable, including balances and currency and coin	6,862	947	71	87	171	358	22
Other assets	14,111	5,008	2,089	2,755	2,678	4,100	245
Total	3,679	1,450	750	767	921	1,184	130
Securities	66,966	13,010	4,529	5,172	6,453	9,306	1,304
Government and securities purchased under agreements to resell	851	144	64	59	83	121	14
Other	0	0	0	0	0	0	0
Total	66,115	12,866	4,465	5,113	6,370	9,179	1,194
Premises and fixed assets	1,216	322	134	164	187	393	31
Other real estate owned	214	53	50	30	20	52	1
Other assets	6,102	899	205	213	253	322	33
Total assets	104,326	23,566	8,615	10,006	11,700	17,097	1,997
Liabilities							
Noninterest-bearing deposits in domestic offices	13,869	4,268	1,709	1,885	2,334	3,835	440
Interest-bearing deposits in domestic offices	38,696	14,360	5,540	6,585	6,898	10,101	1,297
Total domestic deposits	52,565	18,628	7,249	8,470	9,232	13,936	1,737
Non interest-bearing deposits in foreign offices	626	0	0	0	11	0	0
Interest-bearing deposits in foreign offices	21,689	198	36	0	145	25	0
Total foreign deposits	22,315	198	36	0	156	25	0
Total deposits	74,880	18,826	7,285	8,470	9,388	13,961	1,737
Federal funds purchased and securities sold under agreements to repurchase	10,810	2,174	503	512	1,136	1,367	79
Interest-bearing demand notes issued to U.S. Treasury	1,296	171	47	52	71	35	15
Other liabilities for borrowed money	6,719	106	18	12	34	31	9
Mortgage indebtedness and liability for capitalized leases	44	38	20	4	23	18	1
Subordinated notes and debentures	396	17	25	9	5	19	1
All other liabilities	3,954	703	122	153	220	301	20
Total liabilities	98,099	22,035	8,020	9,212	10,877	15,732	1,862
Limited-life preferred stock	0	0	0	0	0	0	0
Equity Capital							
Perpetual preferred stock	8	3	1	1	—	—	0
Common stock	1,883	230	92	129	103	183	21
Surplus	2,133	429	136	204	157	363	34
Undivided profits and capital reserves	2,219	869	366	460	563	818	80
Cumulative foreign currency translation adjustments	-16	0	0	0	0	0	0
Total equity capital	6,227	1,531	595	794	823	1,365	135
Total liabilities, limited-life preferred stock, and equity capital	104,326	23,566	8,615	10,006	11,700	17,097	1,997
Number of banks with foreign offices	5	3	1	0	2	3	0

See notes at end of table

Consolidated foreign and domestic assets, liabilities and capital accounts of national banks, December 31, 1984—continued
(Dollar amounts in millions)

	Maryland	Massachusetts	Michigan	Minnesota	Mississippi	Missouri	Montana
Number of banks	25	64	119	199	34	126	54
Assets							
Cash and balances due from depository institutions	\$ 1,351	\$ 3,539	\$ 2,410	\$ 2,468	\$ 580	\$ 2,945	\$ 249
Noninterest-bearing balances and currency and coin	811	3,061	2,984	2,525	195	513	115
Interest-bearing balances	2,581	2,958	6,657	5,152	2,132	3,076	696
Securities	961	1,208	1,291	1,918	342	2,062	442
Federal funds sold and securities purchased under agreements to resell							
Loans and leases, net of unearned income	8,785	22,984	20,420	20,097	3,957	10,678	2,121
Less allowance for loan and lease losses	119	346	238	267	56	153	26
Less allocated transfer risk reserve	—	0	0	2	0	0	0
Net loans and leases	8,666	22,638	20,182	19,828	3,901	10,525	2,095
Premises and fixed assets	224	509	462	309	160	347	54
Other real estate owned	19	12	100	82	34	46	20
Other assets	1,066	2,856	1,043	2,096	199	644	84
Total assets	15,679	36,781	35,129	34,378	7,543	20,158	3,755
Liabilities							
Noninterest-bearing deposits in domestic offices	3,520	7,190	6,045	5,559	1,435	5,369	527
Interest-bearing deposits in domestic offices	7,266	13,520	20,378	15,905	4,740	9,470	2,591
Total domestic deposits	10,786	20,710	26,423	21,464	6,175	14,839	3,118
Noninterest-bearing deposits in foreign offices	1	384	8	20	0	0	0
Interest-bearing deposits in foreign offices	709	6,483	1,633	3,026	13	618	0
Total foreign deposits	710	6,867	1,641	3,046	13	618	0
Total deposits	11,496	27,577	28,064	24,510	6,188	15,457	3,118
Federal funds purchased and securities sold under agreements to repurchase	2,159	2,571	3,340	5,364	664	2,532	279
Interest-bearing demand notes issued to U S Treasury	125	245	355	339	32	156	15
Other liabilities for borrowed money	152	1,885	220	368	40	141	3
Mortgage indebtedness and liability for capitalized leases	31	30	40	37	3	82	7
Subordinated notes and debentures	2	88	150	151	10	9	15
All other liabilities	856	2,491	852	1,732	106	496	69
Total liabilities	14,821	34,887	33,021	32,501	7,043	18,873	3,506
Limited-life preferred stock	0	0	0	0	0	0	0
Equity Capital							
Perpetual preferred stock	0	0	1	11	0	4	0
Common stock	92	167	359	365	52	176	75
Surplus	252	616	656	504	405	305	80
Undivided profits and capital reserves	513	1,120	1,097	997	43	800	94
Cumulative foreign currency translation adjustments	1	-9	-5	0	0	0	0
Total equity capital	858	1,894	2,108	1,877	500	1,285	249
Total liabilities limited-life preferred stock, and equity capital	15,679	36,781	35,129	34,378	7,543	20,158	3,755
Number of banks with foreign offices	3	4	5	4	1	4	0

See notes at end of table

Consolidated foreign and domestic assets, liabilities and capital accounts of national banks, December 31, 1984—continued
(Dollar amounts in millions)

	Nebraska	Nevada	New Hampshire	New Jersey	New Mexico	New York	North Carolina
Assets							
Cash and balances due from depository institutions	123	5	27	71	42	107	
Noninterest-bearing balances and currency and coin							
Interest-bearing balances	\$ 924	\$ 326	\$ 239	\$ 3,690	\$ 423	\$ 12,233	\$ 4,114
Securities	40	321	81	1,388	76	22,567	1,664
Federal funds sold and securities purchased under agreements to resell	2,057	603	547	7,935	1,304	17,910	4,606
Loans and leases, net of unearned income	613	9	113	1,410	335	11,100	1,091
Less allowance for loan and lease losses	4,989	1,920	1,745	22,155	2,914	167,312	17,344
Less allocated transfer risk reserve	68	26	16	254	33	1,748	222
Net loans and leases	0	0	0	0	0	0	0
Premises and fixed assets	4,921	1,894	1,729	21,901	2,881	165,564	17,121
Other real estate owned							
Other assets	161	86	43	615	112	3,309	442
	51	22	1	43	15	240	11
	241	91	42	1,197	118	36,178	2,013
Total assets	9,008	3,352	2,795	38,179	5,264	269,101	29,513
Liabilities							
Noninterest-bearing deposits in domestic offices	1,774	792	566	9,587	893	30,293	5,201
Interest-bearing deposits in domestic offices	5,674	1,897	1,759	22,517	3,588	64,075	13,613
Total domestic deposits	7,448	2,689	2,325	32,104	4,481	94,365	18,814
Noninterest-bearing deposits in foreign offices	0	0	0	0	0	4,364	23
Interest-bearing deposits in foreign offices	0	0	0	448	0	92,545	2,357
Total foreign deposits	0	0	0	448	0	96,909	2,380
Total deposits	7,448	2,689	2,325	32,552	4,481	191,274	21,194
Federal funds purchased and securities sold under agreements to repurchase							
Interest-bearing demand notes issued to U.S. Treasury	640	307	227	2,103	304	18,475	4,748
Other liabilities for borrowed money	34	19	14	173	14	916	205
Mortgage indebtedness and liability for capitalized leases	10	3	2	163	3	10,746	173
Subordinated notes and debentures	26	6	5	25	3	268	68
All other liabilities	28	0	2	47	14	1212	102
	143	64	38	815	74	31,020	1,404
Total liabilities	8,329	3,088	2,613	35,878	4,893	253,911	27,894
Limited-life preferred stock	0	0	0	0	0	0	0
Equity Capital							
Perpetual preferred stock							
Common stock	95	0	0	4	0	15	0
Surplus	126	56	13	432	92	2,490	254
Undivided profits and capital reserves	457	75	48	562	132	4,735	333
Cumulative foreign currency translation adjustments	0	133	121	1,303	147	8,050	1,036
Total equity capital	679	265	182	2,301	371	15,190	1,623
Total liabilities, limited-life preferred stock, and equity capital	9,008	3,352	2,795	38,179	5,264	269,101	29,513
Number of banks with foreign offices	0	0	0	8	0	11	1

See notes at end of table

Consolidated foreign and domestic assets, liabilities and capital accounts of national banks, December 31, 1984—continued
(Dollar amounts in millions)

	North Dakota	Ohio	Oklahoma	Oregon	Pennsylvania	Rhode Island	South Carolina
Number of banks	40	150	228	7	195	4	18
Assets							
Cash and balances due from depository institutions		\$ 4,598	\$ 1,787	\$ 1,139	\$ 5,917	\$ 382	\$ 873
Noninterest-bearing balances and currency and coin	246	3,115	311	324	6,689	250	219
Interest-bearing balances	74	9,979	4,961	1,274	13,279	1,064	1,191
Securities	732	3,458	1,340	833	2,218	422	585
Federal funds sold and securities purchased under agreements to resell	173						
Loans and leases, net of unearned income	1,680	32,775	11,362	7,606	51,911	4,334	4,083
Less allowance for loan and lease losses	23	394	217	73	656	54	49
Less allocated transfer risk reserve	0	0	0	0	0	0	0
Net loans and leases	1,657	32,381	11,145	7,533	51,255	4,280	4,034
Premises and fixed assets							
Other real estate owned	48	897	314	162	994	87	207
Other assets	16	76	76	88	82	1	9
	61	1,886	760	1,016	7,551	545	225
Total assets	3,007	56,390	20,694	12,369	87,985	7,031	7,343
Liabilities							
Noninterest-bearing deposits in domestic offices		9,782	4,121	2,053	13,793	939	1,778
Interest-bearing deposits in domestic offices	455	33,342	12,989	7,114	42,909	3,381	3,887
Total domestic deposits	2,546	43,124	17,110	9,167	56,702	4,320	5,665
Noninterest-bearing deposits in foreign offices	0	9	0	0	459	4	0
Interest-bearing deposits in foreign offices	0	684	180	99	6,362	658	0
Total foreign deposits	0	693	180	99	6,821	662	0
Total deposits	2,546	43,817	17,290	9,266	63,523	4,982	5,665
Federal funds purchased and securities sold under agreements to repurchase							
Interest-bearing demand notes issued to U.S. Treasury	155	6,330	1,281	1,101	9,475	869	966
Other liabilities for borrowed money	13	308	121	52	528	26	44
Mortgage indebtedness and liability for capitalized leases	3	406	182	160	2,415	515	113
Subordinated notes and debentures	6	65	8	12	91	6	7
All other liabilities	16	29	65	48	546	12	10
	60	1,531	314	977	6,435	225	89
Total liabilities	2,799	52,486	19,261	11,616	83,013	6,635	6,894
Limited-life preferred stock							
Equity Capital							
Perpetual preferred stock							
Common stock	0	—	12	1	1	20	0
Surplus	57	664	267	93	602	29	46
Undivided profits and capital reserves	59	1,422	382	202	1,575	111	132
Cumulative foreign currency translation adjustments	92	1,761	773	458	2,791	236	271
Total equity capital	208	3,848	1,433	753	4,962	396	449
Total liabilities, limited life preferred stock, and equity capital	3,007	56,390	20,694	12,369	87,985	7,031	7,343
Number of banks with foreign offices	0	9	4	2	8	2	2

See notes at end of table

Consolidated foreign and domestic assets, liabilities and capital accounts of national banks, December 31, 1984 — continued

(Dollar amounts in millions)

	South Dakota	Tennessee	Texas	Utah	Vermont	Virginia	Washington
<i>Assets</i>							
Cash and balances due from depository institutions	25	60	997	7	12	50	24
Noninterest-bearing balances and currency and coin							
Interest-bearing balances	\$ 281	\$ 1,865	\$ 11,299	\$ 694	\$ 93	\$ 1,069	\$ 1,142
Securities	64	788	8,188	364	30	418	352
Federal funds sold and securities purchased under agreements to resell	739	3,530	18,237	557	208	2,580	1,909
Loans and leases, net of unearned income	160	1,028	8,797	726	67	663	472
Less allowance for loan and lease losses	8,867	10,084	84,082	3,635	888	10,357	11,270
Less allocated transfer risk reserve	132	125	1,220	43	6	106	210
	0	0	0	0	0	0	0
Net loans and leases	8,735	9,959	82,862	3,592	882	10,251	10,959
Premises and fixed assets							
Other real estate owned	121	331	2,309	93	24	324	471
Other assets	17	42	392	69	1	21	95
	268	838	5,444	123	26	411	1,697
<i>Total assets</i>	10,385	18,381	137,528	6,218	1,331	15,737	24,609
<i>Liabilities</i>							
Noninterest-bearing deposits in domestic offices							
Interest-bearing deposits in domestic offices	536	3,865	24,661	1,136	225	2,727	4,631
	5,545	10,911	69,169	3,417	964	9,561	13,593
<i>Total domestic deposits</i>	6,081	14,776	93,830	4,553	1,189	12,288	18,224
Noninterest-bearing deposits in foreign offices	0	0	15	0	0	0	30
Interest-bearing deposits in foreign offices	0	60	11,983	150	0	59	954
<i>Total foreign deposits</i>	0	60	11,998	150	0	59	984
<i>Total deposits</i>	6,081	14,836	105,828	4,703	1,189	12,347	19,208
Federal funds purchased and securities sold under agreements to repurchase							
Interest-bearing demand and notes issued to U.S. Treasury	2,713	1,679	15,232	882	21	1,718	1,582
Other liabilities for borrowed money	7	30	779	36	9	135	198
Mortgage indebtedness and liability for capitalized leases	460	39	2,149	56	—	249	710
Subordinated notes and debentures	5	23	197	7	—	26	48
All other liabilities	20	14	640	48	7	33	135
	280	591	4,267	128	15	243	1,398
<i>Total liabilities</i>	9,566	17,212	129,092	5,860	1,242	14,751	23,279
Limited-life preferred stock	0	0	0	0	0	0	9
<i>Equity Capital</i>							
Perpetual preferred stock	1	2	95	0	0	0	6
Common stock	167	204	1,565	54	13	89	245
Surplus	202	294	2,340	113	28	277	792
Undivided profits and capital reserves	449	670	4,436	191	48	621	278
Cumulative foreign currency translation adjustments	0	0	—	0	0	0	—
<i>Total equity capital</i>	819	1,170	8,436	358	89	986	1,321
<i>Total liabilities, limited-life preferred stock, and equity capital</i>	10,385	18,381	137,528	6,218	1,331	15,737	24,609
Number of banks with foreign offices	0	4	18	1	0	1	4

See notes at end of table

*Consolidated foreign and domestic assets, liabilities and capital accounts of national banks,
December 31, 1984—continued
(Dollar amounts in millions)*

	<i>West Virginia</i>	<i>Wisconsin</i>	<i>Wyoming</i>	<i>District of Columbia nonnational*</i>
Number of banks	100	122	58	1
Assets				
Cash and balances due from depository institutions:				
Noninterest-bearing balances and currency and coin	\$ 394	\$ 1,354	\$ 202	\$ 4
Interest-bearing balances	154	238	62	0
Securities	2,745	2,822	798	27
Federal funds sold and securities purchased under agreements to resell	398	670	197	6
Loans and leases, net of unearned income	3,638	8,780	1,524	35
Less allowance for loan and lease losses	38	98	26	2
Less allocated transfer risk reserve	0	1	0	0
Net loans and leases	3,600	8,681	1,498	34
Premises and fixed assets	160	293	51	1
Other real estate owned	19	37	21	—
Other assets	152	521	74	1
<i>Total assets</i>	7,622	14,617	2,903	73
Liabilities				
Noninterest-bearing deposits in domestic offices	1,084	2,753	498	19
Interest-bearing deposits in domestic offices	5,192	8,681	2,052	49
Total domestic deposits	6,276	11,434	2,550	68
Noninterest-bearing deposits in foreign offices	0	14	0	0
Interest-bearing deposits in foreign offices	0	322	0	0
Total foreign deposits	0	336	0	0
Total deposits	6,276	11,770	2,550	68
Federal funds purchased and securities sold under agreements to repurchase	537	1,350	56	—
Interest-bearing demand notes issued to U.S. Treasury	25	115	3	0
Other liabilities for borrowed money	10	55	7	0
Mortgage indebtedness and liability for capitalized leases	8	12	4	0
Subordinated notes and debentures	2	16	7	0
All other liabilities	101	332	36	—
<i>Total liabilities</i>	6,959	13,650	2,663	69
Limited-life preferred stock	0	0	0	0
Equity Capital				
Perpetual preferred stock	0	0	0	0
Common stock	89	169	18	—
Surplus	190	300	59	1
Undivided profits and capital reserves	384	498	163	3
Cumulative foreign currency translation adjustments	0	0	0	0
<i>Total equity capital</i>	663	967	240	4
<i>Total liabilities, limited-life preferred stock, and equity capital</i>	7,622	14,617	2,903	73
Number of banks with foreign offices	0	2	0	0

* Nonnational banks in the District of Columbia are supervised by the Comptroller of the Currency. Nonnational bank data are not included in U.S. aggregates.

NOTES: Foreign offices are defined to include Edge Act and Agreement subsidiaries in the U.S., branches located in Puerto Rico, the Virgin Islands and U.S. Trust Territories and branches and subsidiaries located in foreign countries.

Dashes indicate amounts of less than \$500,000.

Data are from the consolidated reports of condition filed quarterly by all national banks. Five national noninsured trust companies and five national banks are not included in this table.

Domestic office deposits of national banks, by states, December 31, 1984
(Dollar amounts in millions)

	Total demand deposits at domestic offices	NOW and automatic transfer accounts	Non transaction savings accounts	Time certificates of deposit of \$100 000 or more	Other large time deposits	All other time deposits at domestic offices	Total deposits at foreign offices	Total consolidated deposits	Brokered deposits
All national banks	\$246,377	\$42,587	\$249,222	\$158,006	\$18,645	\$230,086	\$205,992	\$1,150,913	\$18,099
Alabama	2,680	403	2,222	1,554	454	3,305	121	10,738	141
Alaska	658	20	588	323	2	215	1	1,808	20
Arizona	3,143	415	3,983	1,319	4	3,305	25	12,194	0
Arkansas	1,597	413	1,953	1,148	63	2,382	3	7,560	11
California	30,339	5,696	39,079	24,287	3,412	22,482	43,980	169,275	4,047
Colorado	4,024	726	3,781	2,430	178	2,161	195	13,494	188
Connecticut	3,650	606	2,594	769	220	2,110	515	10,463	139
Delaware	164	18	645	1,070	3	369	4	2,272	10
District of Columbia*	2,669	471	2,849	2,421	37	714	2,137	11,298	423
Florida	11,757	2,941	15,271	4,736	400	9,723	720	45,546	210
Georgia	5,661	803	3,708	1,970	64	3,732	887	16,824	311
Hawaii	44	1	60	31	0	31	0	167	0
Idaho	750	266	1,245	568	4	1,646	0	4,478	53
Illinois	13,702	1,850	11,763	9,722	1,298	14,231	22,315	74,880	1,507
Indiana	4,239	689	4,602	2,122	29	6,947	198	18,826	69
Iowa	1,662	423	1,533	508	1	3,122	36	7,285	65
Kansas	1,876	430	2,038	1,377	67	2,683	0	8,470	7
Kentucky	2,332	502	1,880	1,234	20	3,265	156	9,389	299
Louisiana	3,758	598	3,050	3,430	18	3,082	25	13,961	165
Maine	437	158	600	79	3	460	0	1,737	0
Maryland	3,505	558	3,085	966	4	2,667	710	11,496	112
Massachusetts	7,160	930	5,901	3,799	749	2,171	6,867	27,577	327
Michigan	6,022	865	7,866	3,193	102	8,375	1,642	28,064	372
Minnesota	5,538	915	4,035	4,964	470	5,542	3,046	24,510	1,375
Mississippi	1,425	314	1,284	914	3	2,234	13	6,187	0
Missouri	5,317	580	2,468	3,007	204	3,262	618	15,457	458
Montana	526	200	790	322	49	1,231	0	3,118	2
Nebraska	1,764	455	1,429	614	14	3,171	0	7,448	3
Nevada	788	199	712	413	0	577	0	2,688	133
New Hampshire	563	243	764	201	3	551	0	2,325	0
New Jersey	9,543	1,423	10,373	2,677	65	8,025	448	32,552	214
New Mexico	890	168	1,341	961	30	1,091	0	4,481	1
New York	29,013	3,013	26,390	11,679	5,054	19,216	96,909	191,274	682
North Carolina	5,122	1,331	5,235	2,075	213	4,839	2,379	21,194	177
North Dakota	451	134	611	201	1	1,149	0	2,546	4
Ohio	9,684	2,280	12,232	4,553	262	14,113	694	43,818	336
Oklahoma	3,996	623	3,338	5,014	14	4,125	180	17,290	268
Oregon	2,051	858	2,955	719	0	2,583	99	9,266	15
Pennsylvania	13,471	1,909	16,979	7,284	1,017	16,042	6,821	63,523	1,311
Rhode Island	913	123	1,377	716	191	1,000	663	4,983	75
South Carolina	1,777	487	1,671	275	0	1,456	0	5,665	0
South Dakota	515	244	1,174	2,095	2	2,050	0	6,081	608
Tennessee	3,854	760	3,417	1,853	21	4,871	60	14,836	11
Texas	24,439	3,248	15,359	31,965	3,598	15,220	11,998	105,828	3,661
Utah	1,127	282	1,120	790	4	1,230	150	4,703	0
Vermont	225	68	436	60	7	393	0	1,189	0
Virginia	2,721	819	2,786	1,283	25	4,654	59	12,346	90
Washington	4,540	1,209	5,213	1,993	40	5,228	984	19,208	174
West Virginia	1,073	295	1,757	444	3	2,704	0	6,276	5
Wisconsin	2,740	464	3,021	1,518	21	3,669	336	11,770	18
Wyoming	482	163	662	360	203	680	0	2,550	0

* Includes national and nonnational banks in the District of Columbia, all of which are supervised by the Comptroller of the Currency.

NOTE: Figures may not add to totals due to rounding.

Domestic office loans of national banks, by states, December 31, 1984
(Dollar amounts in millions)

	<i>Total loans, gross</i>	<i>Loans secured by real estate</i>	<i>Loans to financial institutions</i>	<i>Loans to farmers</i>	<i>Commercial and industrial loans</i>	<i>Personal loans to individuals</i>	<i>Other loans</i>	<i>Total loans at foreign offices</i>	<i>Total loans less un- earned income</i>
All national banks	\$935,679	\$222,381	\$19,338	\$18,731	\$261,498	\$158,816	\$89,519	\$165,395	\$925,071
Alabama	7,671	1,977	84	74	2,410	2,022	1,069	35	7,432
Alaska	1,384	482	10	9	495	194	189	6	1,383
Arizona	9,377	2,626	255	511	2,786	2,582	564	53	9,330
Arkansas	5,060	1,722	47	187	1,754	1,009	342	0	4,948
California	146,309	42,067	1,261	3,424	32,068	19,764	9,579	38,146	146,078
Colorado	10,080	3,201	55	571	3,429	1,935	886	3	10,056
Connecticut	8,024	2,409	187	13	2,821	1,835	532	227	7,873
Delaware	5,595	149	6	0	139	5,130	170	0	5,594
District of Columbia*	7,289	2,098	473	3	2,085	700	1,021	909	7,241
Florida	32,040	12,371	405	130	7,634	8,513	2,717	269	31,325
Georgia	13,502	3,088	159	60	4,118	3,660	2,145	273	13,278
Hawaii	103	59	0	0	32	12	1	0	103
Idaho	3,519	997	6	386	986	869	275	0	3,493
Illinois	67,441	11,105	1,366	1,137	23,469	7,586	6,514	16,265	66,966
Indiana	13,226	4,033	466	319	3,424	2,920	1,873	191	13,010
Iowa	4,550	1,195	50	847	1,137	905	401	14	4,529
Kansas	5,203	1,105	64	876	1,725	1,055	376	0	5,172
Kentucky	6,590	1,788	59	274	1,905	1,475	991	97	6,452
Louisiana	9,475	2,739	55	67	3,301	2,249	1,033	30	9,300
Maine	1,209	450	1	5	376	291	86	0	1,208
Maryland	8,847	2,830	211	45	2,605	1,682	890	582	8,785
Massachusetts	23,200	3,916	695	30	8,682	2,532	2,474	4,870	22,985
Michigan	20,474	5,838	324	150	7,025	3,286	3,267	585	20,420
Minnesota	20,250	4,137	569	818	7,514	2,497	3,357	1,357	20,097
Mississippi	4,104	1,361	30	87	1,155	1,111	358	2	3,958
Missouri	10,753	2,524	466	373	3,381	2,099	1,511	399	10,678
Montana	2,153	509	5	346	726	466	101	0	2,122
Nebraska	5,001	770	159	1,466	1,151	986	469	0	4,989
Nevada	1,920	726	37	9	569	488	92	0	1,920
New Hampshire	1,810	644	13	1	503	544	105	0	1,745
New Jersey	22,553	7,976	650	9	7,269	4,532	1,995	121	22,156
New Mexico	2,974	892	29	139	1,059	731	125	0	2,914
New York	170,153	18,804	2,955	347	30,439	16,269	10,991	90,348	167,312
North Carolina	17,496	4,312	519	150	5,564	4,049	2,281	620	17,344
North Dakota	1,684	445	10	333	516	298	82	0	1,680
Ohio	33,505	8,954	442	364	9,614	9,521	4,212	398	32,775
Oklahoma	11,465	3,413	129	699	4,366	1,525	1,333	0	11,362
Oregon	7,666	2,186	151	229	2,538	1,393	1,120	49	7,607
Pennsylvania	52,611	10,382	4,768	181	17,027	8,000	8,425	3,829	51,911
Rhode Island	4,360	1,149	168	1	1,482	681	610	270	4,334
South Carolina	4,208	1,022	68	44	1,148	1,306	620	0	4,083
South Dakota	8,888	478	8	702	689	6,793	218	0	8,867
Tennessee	10,239	2,826	262	114	3,202	2,301	1,520	15	10,084
Texas	84,972	26,011	1,398	1,973	33,776	10,108	7,961	3,745	84,081
Utah	3,661	1,387	15	67	1,057	826	309	0	3,635
Vermont	888	406	1	13	230	198	40	0	888
Virginia	10,718	3,436	72	115	2,526	3,364	1,183	22	10,357
Washington	17,351	4,613	67	588	5,509	3,412	1,725	1,437	17,270
West Virginia	3,766	1,476	17	12	652	1,333	277	0	3,638
Wisconsin	8,828	2,881	90	250	2,842	1,476	1,059	230	8,780
Wyoming	1,532	415	0	179	588	306	44	0	1,524

* Includes national and nonnational banks in the District of Columbia, all of which are supervised by the Comptroller of the Currency.
NOTE: Figures may not add to totals due to rounding.

Outstanding balances, credit cards and related plans of national banks, December 31, 1984

(Dollar amounts in thousands)

	Total number of national banks	Credit cards and other related credit plans	
		Number of national banks	Outstanding volume
All national banks	4,899	2,200	\$47,448,144
Alabama	75	24	246,597
Alaska	6	4	59,594
Arizona	10	5	620,999
Arkansas	77	11	56,597
California	158	134	8,537,536
Colorado	229	186	666,011
Connecticut	14	9	377,611
Delaware	14	12	4,082,929
District of Columbia	18	17	123,020
Florida	182	67	1,623,130
Georgia	55	30	1,231,522
Hawaii	3	2	3,071
Idaho	7	6	126,918
Illinois	404	170	3,117,390
Indiana	111	73	513,819
Iowa	106	49	258,436
Kansas	165	35	191,652
Kentucky	79	30	140,375
Louisiana	67	18	388,577
Maine	9	7	55,475
Maryland	25	11	404,168
Massachusetts	64	51	598,049
Michigan	119	86	1,043,605
Minnesota	199	126	302,486
Mississippi	34	6	94,512
Missouri	126	58	780,500
Montana	54	29	39,388
Nebraska	123	39	258,230
Nevada	5	3	51,266
New Hampshire	27	24	59,684
New Jersey	71	48	553,131
New Mexico	42	11	138,993
New York	107	56	4,687,508
North Carolina	17	14	894,842
North Dakota	40	21	16,934
Ohio	150	103	2,100,968
Oklahoma	228	50	205,090
Oregon	7	4	367,880
Pennsylvania	195	53	1,015,137
Rhode Island	4	3	187,313
South Carolina	18	14	271,649
South Dakota	25	9	6,391,429
Tennessee	60	20	416,217
Texas	997	276	1,484,499
Utah	7	4	121,156
Vermont	12	4	27,734
Virginia	50	17	720,461
Washington	24	9	1,242,933
West Virginia	100	20	65,781
Wisconsin	122	103	471,611
Wyoming	58	39	13,372
District of Columbia — 31*	19	19	123,255

* Includes the national bank in the District of Columbia which is also supervised by the Comptroller of the Currency

National banks engaged in lease financing, December 31, 1984
(Dollar amounts in thousands)

	Total number of national banks	Number of banks engaged in lease financing	Amounts of lease financing at domestic offices
All national banks	4,899	1,166	\$12,062,935
Alabama	75	21	60,732
Alaska	6	2	4,868
Arizona	10	2	151,519
Arkansas	77	19	18,425
California	158	54	3,571,387
Colorado	229	88	148,909
Connecticut	14	3	40,201
Delaware	14	1	8,586
District of Columbia	18	6	33,244
Florida	182	29	161,768
Georgia	55	17	186,272
Hawaii	3	1	604
Idaho	7	4	78,953
Illinois	404	82	142,546
Indiana	111	37	239,080
Iowa	106	25	13,609
Kansas	165	35	32,595
Kentucky	79	20	152,381
Louisiana	67	11	75,024
Maine	9	3	5,759
Maryland	25	8	101,888
Massachusetts	64	17	793,131
Michigan	119	21	228,424
Minnesota	199	71	167,521
Mississippi	34	7	11,162
Missouri	126	36	172,416
Montana	54	13	2,437
Nebraska	123	41	71,727
Nevada	5	2	23,884
New Hampshire	27	4	2,319
New Jersey	71	16	194,280
New Mexico	42	20	12,188
New York	107	28	1,405,266
North Carolina	17	6	474,027
North Dakota	40	17	9,920
Ohio	150	63	724,215
Oklahoma	228	70	28,056
Oregon	7	2	207,866
Pennsylvania	195	27	732,851
Rhode Island	4	2	316,035
South Carolina	18	3	34,389
South Dakota	25	8	1,310
Tennessee	60	23	62,746
Texas	997	119	425,146
Utah	7	2	107,214
Vermont	12	0	0
Virginia	50	8	158,656
Washington	24	9	371,792
West Virginia	100	15	7,415
Wisconsin	122	30	86,051
Wyoming	58	18	2,141
District of Columbia—all*	19	18	33,244

* Includes the nonnational bank in the District of Columbia, which is also supervised by the Comptroller of the Currency

Income and expenses of foreign and domestic offices and subsidiaries of national banks, by states, year ended December 31, 1984
(Dollar amounts in millions)

	Total United States	Alabama	Alaska	Arizona	Arkansas	California	Colorado
Interest income	4 899	75	6	10	77	158	104
Interest on loans	\$111 520 1	\$838 1	\$179 1	\$1 069 2	\$586 7	\$17 640 4	\$1 290 6
Interest on lease financing receivables	1 526 7	32	6	118	19	406 9	117
Interest on balances due from depository institutions	10 543 1	39 6	40	73 0	12 4	1 677 1	200
Interest on securities	18 801 8	324 7	48 0	181 8	200 5	1 017 3	233 0
Interest on assets held in trading accounts	1 440 1	2 6	0	6	7	219 3	27
Interest on federal funds sold and securities purchased under agreements to resell	6 222 0	71 5	7 0	44 2	74 1	671 0	17 4
Total interest income	150 053 8	1 279 7	238 7	1 380 6	876 3	21 632 0	1 645 7
Interest expense	83 037 3	670 7	94 2	753 8	499 1	13 288 3	821 2
Interest on deposits	13 195 9	116 8	14 7	52 0	68 1	966 2	142 6
Interest on federal funds purchased and securities sold under agreements to resell	5 544 8	20 5	1 3	11 7	4 3	453 0	14 4
Interest on demand notes issued to the U.S. Treasury and on other borrowed money	238 5	6	1	3	9	25 2	2 5
Interest on mortgage indebtedness and obligations under capitalized leases	444 9	2 2	—	3 4	1 9	25 6	3 7
Interest on notes and debentures subordinated to deposits	102 461 4	810 8	110 3	821 2	574 3	14 758 3	984 6
Total interest expense	47 591 7	469 0	127 7	559 5	300 2	6 873 9	661 4
Provision for loan and lease losses	9 030 8	39 1	2 7	60 6	42 6	1 861 8	115 5
Provision for allocated transfer risk	34 9	0	0	—	0	16 7	0
Noninterest income	3 766 0	56 6	13 1	77 7	28 8	593 4	84 1
Service charges on deposit accounts	13 645 8	109 0	29 1	92 9	62 1	2 278 4	149 3
Other noninterest income	17 411 8	165 6	42 2	170 6	90 9	2 871 8	233 4
Total noninterest income	— 131 8	— 7	6	— 8 2	4	16 8	— 6
Gains and losses on securities not held in trading accounts	22 020 7	219 4	63 8	274 3	129 1	3 605 2	297 9
Noninterest expense	7 134 9	68 5	22 1	80 8	43 2	1 265 2	90 9
Salaries and employee benefits	15 533 6	139 1	31 2	134 6	99 4	2 178 0	271 4
Expenses of premises and fixed assets (net of rental income)	44 689 2	427 0	117 1	489 7	271 7	7 048 4	660 2
Other noninterest expense	11 116 3	168 0	50 7	171 5	77 3	835 6	1 18 6
Total noninterest expense	2 825 2	22 1	8 4	52 4	10 9	403 8	7 2
Income before income taxes and extraordinary items and other adjustments	8 291 1	145 9	42 3	119 1	66 3	431 8	11 4
Income before extraordinary items and other adjustments	132 7	1	5	0	—	6	1
Extraordinary items and adjustments net of taxes	8 425 0	145 7	42 3	119 1	66 3	432 4	11 5
Net income	4 213 6	71 7	10 5	42 7	21 1	176 3	63 9
Total fair dividends declared	1 155 4	12 0	1 6	13 2	5 2	195 1	13 5
Reserves credited to allowance for possible loan losses	7 824 2	33 0	2 8	50 6	28 7	1 644 8	83 5
Reserves charged to allowance for possible loan losses	8 979 6	45 0	4 4	63 8	33 9	1 839 9	96 8
Net loan losses							

Income and expenses of foreign and domestic offices and subsidiaries of national banks, by states, year ended December 31, 1984—continued
(Dollar amounts in millions)

	Connecticut	Delaware	District of Columbia	Florida	Georgia	Hawaii	Illinois
<i>Income</i>	14	14	18	182	55	8	1
<i>Interest income</i>							
Interest on loans	\$916.4	\$738.1	\$778.0	\$3,563.4	\$1,546.5	\$1,238.3	\$3,444.4
Interest on lease financing receivables	57	4	8	137	199	—	—
Interest on other balances due from depository institutions	135.4	54	166.0	215.5	154.5	—	—
Interest and dividend income on securities	146.6	161	273.3	977.8	292.2	46	—
Interest income from assets held in trading accounts	25	—	17	80	147	—	4
Interest income from federal funds sold and securities purchased under agreements to resell	17.0	6.2	35.4	360.6	59.7	2.0	—
<i>Total interest income</i>	1,223.6	766.2	1,255.2	5,139.0	2,087.5	19.1	3,444.4
<i>Interest expense</i>							
Interest on deposits	579.2	165.9	717.3	2,683.8	946.4	10.4	314.7
Expense on federal funds purchased and securities sold under agreements to repurchase	155.3	69.3	142.6	413.3	280.4	1	44.4
Interest on demand notes issued to the U.S. Treasury and on other borrowed money	23.4	171.3	20.0	18.5	16.9	—	—
Interest on mortgage indebtedness and obligations under capitalized leases	11	4	12	7.3	1.6	1	—
Interest on notes and debentures subordinated to deposits	9	0	31	3.0	19.8	—	19
<i>Total interest expense</i>	759.9	406.9	884.2	3,125.9	1,265.1	10.6	377.6
<i>Net interest income</i>	464.0	359.4	371.2	2,013.1	822.4	8.5	194.9
Provision for loan and lease losses	39.3	118.2	88.3	185.6	70.0	7	26.4
Provision for allocated transfer risk	4	0	7	—	0	0	—
<i>Noninterest income</i>							
Service charges on deposit accounts	48.0	3.4	37.9	219.8	113.4	1.0	22.5
Other noninterest income	119.0	170.7	59.8	485.3	137.0	1.3	30.7
<i>Total noninterest income</i>	167.0	174.1	97.7	705.1	250.4	2.3	53.2
Gains and losses on securities not held in trading accounts	8.3	1	8.0	-25.6	-8.4	—	1.9
<i>Noninterest expense</i>							
Salaries and employee benefits	244.9	59.7	178.4	875.8	361.7	5.2	95.1
Expenses of premises and fixed assets (net of rental income)	84.0	14.0	64.5	335.3	122.4	2.7	19.1
Other noninterest expense	122.9	155.5	99.6	742.0	283.2	3.1	61.4
<i>Total noninterest expense</i>	451.8	229.2	342.5	1,953.1	767.3	11.0	179.7
<i>Income loss before income taxes and extraordinary items and other adjustments</i>	147.8	186.4	45.5	553.9	227.1	9	43.9
Applicable income taxes	34.6	88.1	-17.7	102.6	20.5	-2	4.5
<i>Income before extraordinary items and other adjustments</i>	113.2	98.3	63.2	451.2	206.5	6	39.3
Extraordinary items and adjustments, net of taxes	4	0	3	1.8	2	0	0
<i>Net income</i>	113.6	98.3	63.5	453.0	206.7	6	39.3
<i>Total cash dividends declared</i>	43.0	1.9	29.9	196.1	87.9	—	11.2
Recoveries credited to allowance for possible loan losses	7.8	12.5	6.2	39.4	27.2	3	6.0
Losses charged to allowance for possible loan losses	33.2	83.9	54.3	147.9	62.8	5	17.9
<i>Net loan losses</i>	41.0	96.4	60.5	186.3	90.0	8	33.9

Income and expenses of foreign and domestic offices and subsidiaries of national banks, by states, year ended December 31, 1984 - continued
(Dollar amounts in millions)

	Illinois	Indiana	Iowa	Kansas	Kentucky	Louisiana	Mississippi
Net interest income	404	111	106	165	79	61	3
Interest on loans	\$8 322 2	\$1 469 9	\$562 1	\$641 3	\$749 0	\$1 124 2	\$149 1
Interest on deposits	249	214	17	31	116	11	1
Interest on other financing receivables	922 0	117 1	89	84	103	324	13
Interest on other assets due from depository institutions	1 428 9	497 6	218 1	273 2	261 7	448 2	41
Interest on other assets held in trading accounts	102 3	29	3	13	13	1	1
Interest on other assets from federal funds sold and securities purchased under agreements to resell	316 8	102 8	41 2	65 9	84 4	82 4	1
Total interest income	11 117 1	2 211 8	832 3	993 2	1 118 3	1 696 8	191
Noninterest expense	6 267 6	1 230 7	497 6	561 6	589 2	875 6	101 4
Expense on deposits	1 179 6	228 6	51 4	60 3	117 7	138 6	64
Expense on demand notes issued to the U.S. Treasury and on other borrowed money	769 4	21 7	49	64	130	66	14
Interest on mortgage indebtedness and obligations under capitalized leases	39	38	15	4	29	13	1
Interest on notes and debentures subordinated to deposits	128 6	18	23	9	5	21	1
Total interest expense	8 349 1	1 486 6	557 7	629 6	723 3	1 024 2	109 5
Net interest income	2 767 8	725 2	274 5	363 5	395 0	672 6	86 7
Provision for loan and lease losses	1 757 6	70 8	74 7	57 4	41 6	90 4	47
Provision for allocated transfer risk	163	0	0	0	0	0	0
Noninterest income	156 5	61 3	22 7	29 3	31 1	63 2	59
Service charges on deposit accounts	993 9	133 1	67 9	56 2	60 5	99 6	190
Other noninterest income	1 150 4	194 4	90 6	85 5	91 6	162 8	24 9
Total noninterest income	-48 0	6	5	-33	-33	-73	-29
Gains and losses on securities not held in trading accounts	1 324 8	320 6	111 1	138 5	169 5	274 6	42 4
Noninterest expense	414 4	95 7	33 1	39 7	52 5	93 3	38
Salaries and employee benefits	880 1	225 0	110 6	105 7	106 5	175 6	24 6
Expenses of premises and fixed assets (net of rental income)	2 619 3	641 3	254 8	283 9	328 5	543 5	80 8
Other noninterest expense	-522 9	208 0	36 3	104 4	113 3	194 0	23 2
Total noninterest expense	60 5	30 9	9	19 6	11 3	31 1	52
Income before income taxes and extraordinary items and other adjustments	-583 4	177 1	37 2	84 8	101 9	162 9	17 9
Extraordinary items and adjustments, net of taxes	3 6	1 5	5	1 3	1	0	0
Net income	-579 8	178 6	37 7	86 1	101 9	162 9	17 9
Total earnings declared	232 9	68 6	30 3	50 4	34 5	106 1	7 5
Recoveries credited to allowance for possible loan losses	75 7	12 7	38	30	55	180	12
Losses charged to allowance for possible loan losses	1 713 9	480	25 2	21 4	270	88 2	22
Net loan losses	1 789 6	60 7	29 0	24 4	32 5	106 2	34

Ratio to total operating income							
Interest on deposits	51.1	51.1	53.9	52.1	48.7	47.1	45.9
Other interest expense	17.0	10.6	6.5	6.3	11.1	8.0	3.6
Salaries and employee benefits	10.8	13.3	12.0	12.8	14.0	14.8	19.2
Other noninterest expense	10.6	13.3	15.6	13.5	13.1	14.5	17.4
Total operating expenses	89.4	88.4	88.0	84.7	86.9	84.3	86.1
Ratio of net income to total equity capital (end of period)-percent	-9.3	11.7	5.1	10.8	12.4	11.9	13.3

See notes at end of table

Income and expenses of foreign and domestic offices and subsidiaries of national banks, by states, year ended December 31, 1984—continued
(Dollar amounts in millions)

	Maryland	Massachu- setts	Michigan	Minnesota	Mississippi	Missouri	Murphy
	25	64	119	199	34	126	54
Interest income							
Interest on loans	\$931 1	\$3 208 8	\$2,346 3	\$2,260 8	\$485 3	\$1 249 1	\$2,552 4
Interest on cash and deposits	96	116 4	17 9	40	23	85	4
Interest on securities	113 7	485 0	307 6	291 0	24 9	59 0	16 4
Interest on other assets held in trading accounts	236 9	325 5	609 5	523 9	192 6	296 8	66 0
Interest on other assets held in federal funds sold and securities purchased under agreements to resell	31	86 0	5 9	39 8	2	11 5	3
Total interest income	65 7	79 3	141 3	153 5	39 5	152 9	34 5
Interest expense							
Interest on deposits	1,360 1	4,301 0	3,428 5	3,273 0	744 8	1,777 8	392 5
Interest on demand notes issued to the U.S. Treasury and on other borrowed money	654 7	2,229 9	1,893 7	1,741 7	416 7	897 9	217 1
Interest on mortgage indebtedness and obligations under capitalized leases	166 4	419 4	358 9	602 0	63 3	242 9	33 1
Interest on notes and debentures subordinated to deposits	190	464 0	38 9	59 8	5 5	19 9	20
	40	27	43	53	9	7 6	6
	2	7 6	5 7	13 7	8	8	1 4
Total interest expense	844 3	3,123 6	2,301 5	2,422 5	487 2	1,169 1	254 2
Net interest income							
Provision for loan and lease losses	976 3	1 177 3	1,127 1	850 5	257 6	608 7	138 2
Provision for allocated transfer risk	530	224 3	144 7	221 2	32 2	87 4	21 6
Noninterest income	—	1	6	7	0	0	0
Service charges on deposit accounts	64 2	70 1	101 9	68 8	29 8	48 0	12 6
Other noninterest income	82 5	573 4	266 8	258 6	36 0	196 8	16 4
Total noninterest income	146 7	643 5	368 7	327 4	65 8	244 8	29 0
Gains and losses on securities not held in trading accounts							
Noninterest expense	2 7	3 8	-10 6	-12 2	5	—	—
Salaries and employee benefits	269 3	646 7	555 2	343 4	116 4	284 4	52 1
Expenses of premises and fixed assets (net of rental income)	94 3	199 2	162 3	95 2	35 0	87 4	15 2
Other noninterest expense	143 3	393 7	353 7	294 1	80 6	245 0	41 7
Total noninterest expense	506 9	1,239 6	1,071 2	732 7	232 0	616 8	109 0
Income (loss) before income taxes and extraordinary items and other adjustments							
Applicable income taxes	105 3	360 6	268 7	211 2	59 7	149 2	36 5
Income before extraordinary items and other adjustments	16 5	113 9	30 4	41	-1 3	190	70
Extraordinary items and adjustments, net of taxes	88 7	246 6	238 3	207 1	61 0	130 2	29 5
	0	—	7 3	1	21	3	—
Net income	88 7	246 6	245 6	207 2	63 1	130 5	29 5
Total cash dividends declared	22 3	46 4	144 5	93 7	22 0	80 4	20 1
Recoveries credited to allowance for possible loan losses	109	34 1	23 9	11 4	60	15 1	1 5
Losses charged to allowance for possible loan losses	32 6	136 9	131 3	137 2	28 5	61 3	7 6
Net loan losses	43 5	171 0	155 2	148 6	34 5	76 4	9 1

Ratio to total operating income							
Interest on deposits	43.4	45.1	49.9	48.4	51.4	44.4	51.5
Other interest expense	12.6	18.1	10.7	18.9	8.7	13.4	8.8
Salaries and employee benefits	17.9	13.1	14.6	9.5	14.4	14.1	12.4
Other noninterest expense	15.8	12.0	13.6	10.8	14.3	15.9	13.5
Total operating expenses	89.7	88.2	88.8	87.6	88.7	88.3	86.2
Ratio of net income to total equity capital (end of period)-percent	10.3	13.0	11.6	11.0	12.6	10.2	11.8

See notes at end of table

Income and expenses of foreign and domestic offices and subsidiaries of national banks, by states, year ended December 31, 1984—continued
(Dollar amounts in millions)

	Nebraska	Nevada	New Hampshire	New Jersey	New Mexico	New York	North Carolina
	123	5	27	71	42	107	12
Interest income on loans receivable	\$623.9	\$223.5	\$209.6	\$2,432.6	\$372.9	\$22,241.3	\$1,333.3
Interest income on lease financing receivables	61	36	1	162	12	442.3	54
Interest income on balances due from depository institutions	26	39.7	63	177.2	121	2,942.4	16.8
Interest and dividend income on securities	202.6	46.7	51.7	720.9	133.6	1,700.3	45.0
Interest income from assets held in trading accounts	9	2	—	3.6	1	725.5	3.2
Interest income from federal funds sold and securities purchased under agreements to resell	54.0	6.3	9.6	152.7	34.7	895.7	12.1
Total interest income	890.1	320.2	277.5	3,503.2	554.4	28,947.8	2,164.7
Interest expense	497.5	149.8	142.7	1,818.8	315.3	16,724.0	1,335.4
Interest on deposits	60.3	19.8	15.4	215.7	33.3	1,996.9	418.5
Expense of federal funds purchased and securities sold under agreements to repurchase	10.3	1.6	1.8	33.9	1.9	2,467.8	24.3
Interest on demand notes issued to the U.S. Treasury and on other borrowed money	1.9	6	5	1.8	3	97.8	6.8
Interest on mortgage indebtedness and obligations under capitalized leases	2.3	0	2	4.4	1.4	55.7	9.7
Interest on notes and debentures subordinated to deposits	572.3	171.8	160.6	2,074.6	352.3	21,342.2	1,794.3
Total interest expense	317.9	148.4	116.8	1,428.6	202.2	7,605.6	970.0
Net interest income	80.7	10.3	55	1,074.6	26.5	904.0	74.2
Provision for loan and lease losses	0	0	0	0	0	0	0
Provision for allocated transfer risk	22.4	22.4	5.9	135.5	21.8	217.3	96.9
Noninterest income	96.3	17.2	19.7	200.7	28.8	3,081.9	233.6
Service charges on deposit accounts	118.7	39.6	25.6	336.2	50.7	3,299.2	330.5
Other noninterest income	5	—	—	—	3	26.5	20.1
Total noninterest income	128.3	62.9	48.2	615.5	90.3	3,595.3	436.2
Gains and losses on securities not held in trading accounts	44.8	20.1	16.1	182.7	30.3	1,239.7	131.4
Noninterest expense	113.0	44.2	39.7	425.6	57.1	2,542.9	272.6
Salaries and employee benefits	286.1	127.2	103.9	1,223.8	117.7	7,377.9	840.2
Expenses of premises and fixed assets (net of rental income)	70.3	50.4	32.6	428.0	50.0	2,649.5	364.9
Other noninterest expense	—	15.6	5.4	78.4	7.5	990.4	81.0
Total noninterest expense	70.3	34.8	27.2	349.6	41.5	1,659.1	283.8
Income (loss) before income taxes and extraordinary items and other adjustments	—	0	1	7.2	—	1	0
Applicable income taxes	70.3	34.7	27.3	356.9	41.5	1,659.2	283.8
Income before extraordinary items and other adjustments	39.9	19.6	7.2	146.1	17.8	829.7	95.2
Extraordinary items and adjustments, net of taxes	50	5.0	9	23.9	5.5	199.8	13.8
Net income	36.2	8.9	2.8	83.2	16.3	868.9	43.7
Total cash dividends declared	31.3	3.9	1.9	59.3	10.8	669.1	29.9
Recoveries credited to allowance for possible loan losses							
Losses charged to allowance for possible loan losses							
Net loan losses							

Income and expenses of foreign and domestic offices and subsidiaries of national banks, by states, year ended December 31, 1984—continued
(Dollar amounts in millions)

	North Dakota	Ohio	Oklahoma	Oregon	Pennsylvania	Rhode Island	South Carolina
Net interest	40	150	228	7	195	4	18
Interest and fee income on loans	\$206 1	\$3,757 5	\$1,456 4	\$881 9	\$5,494 9	\$463 8	\$4,411 2
Income from lease financing receivables	8	68 7	40	9 1	72 4	33 3	24 2
Interest income on balances due from depository institutions	6 7	350 8	28 3	62 3	708 7	33 2	21 2
Interest and dividend income on securities	77 8	919 1	455 4	100 2	1,222 4	92 7	124 4
Interest income from assets held in trading accounts	0	9 0	8 9	6 8	81 5	2 6	4 6
Interest income from federal funds sold and securities purchased under agreements to resell	13 0	343 2	106 0	61 3	300 0	17 1	45 7
Total interest income	304 4	5,448 3	2,059 0	1,121 5	7,879 9	642 7	5,724 4
Interest expense	188 1	2,858 3	1,226 7	591 1	4,260 0	369 4	257 4
Interest on deposits	10 1	550 6	133 4	107 3	844 9	69 4	66 8
Expense of federal funds purchased and securities sold under agreements to repurchase	2 1	56 8	33 9	9 4	281 7	20 4	5 9
Interest on demand notes issued to the U.S. Treasury and on other borrowed money	6	5 5	1 6	1 1	7 9	1 5	8
Interest on mortgage indebtedness and obligations under capitalized leases	1 3	2 8	6 7	4 3	26 6	2 4	9
Interest on notes and debentures subordinated to deposits							
Total interest expense	202 2	3,474 0	1,402 3	713 2	5,421 0	463 2	328 8
Net interest income	102 3	1,974 2	656 6	408 2	2,458 8	179 5	244 1
Provision for loan and lease losses	19 9	254 1	256 7	44 8	235 7	22 7	14 3
Provision for allocated transfer risk	0	0	0	0	-1 6	0	0
Noninterest income	9 3	166 6	64 5	57 0	155 9	10 2	28 8
Service charges on deposit accounts	11 9	491 6	129 9	74 0	625 4	109 0	43 4
Other noninterest income							
Total noninterest income	21 2	658 2	194 4	130 9	781 3	119 2	72 2
Gains and losses on securities not held in trading accounts	8	-4 1	5 1	3	-7 3	1 2	-4
Noninterest expense	38 2	865 9	297 5	190 5	1,191 4	107 5	117 6
Salaries and employee benefits	12 2	255 9	81 2	44 2	388 1	12 8	40 5
Expenses of premises and fixed assets (net of rental income)	28 0	603 0	228 3	120 8	760 6	102 4	69 9
Other noninterest expense							
Total noninterest expense	78 4	1,724 8	607 1	355 5	2,340 1	222 7	228 0
Income (loss) before income taxes and extraordinary items and other adjustments	24 4	649 4	-7 7	139 2	658 6	54 7	73 6
Applicable income taxes	2 9	114 9	-22 2	31 3	70 0	-3 1	10 7
Income before extraordinary items and other adjustments	21 5	534 5	14 5	107 9	588 7	57 8	62 8
Extraordinary items and adjustments, net of taxes	—	16 9	31 2	0	9 0	0	3
Net income	21 5	551 4	45 8	107 9	597 7	57 8	63 1
Total cash dividends declared	13 2	383 2	71 7	43 6	268 3	18 5	18 8
Recoveries credited to allowance for possible loan losses	2 2	54 8	20 2	9 6	48 5	7 8	2 7
Losses charged to allowance for possible loan losses	8 0	234 6	199 6	41 7	173 4	23 2	8 7
Net loan losses	5 8	179 8	179 4	32 1	124 9	15 4	6 0

Income and expenses of foreign and domestic offices and subsidiaries of national banks, by states, year ended December 31, 1984 continued
(Dollar amounts in millions)

	South Dakota	Tennessee	Texas	Utah	Vermont	Virginia	Washington
<i>Net interest income</i>	25	60	997	7	12	50	54
Interest income							
Interest and fee income on loans	\$1,195.6	\$1,203.3	\$9,664.7	\$435.1	\$108.4	\$1,176.0	\$1,131.4
Income from lease financing receivables	3	59	24.6	69	0	14.3	34.4
Interest income on balances due from depository institutions	82	90.1	773.6	42.8	2.7	45.9	35.3
Interest and dividend income on securities	90.8	345.7	1,733.6	57.4	17.7	235.8	46.0
Interest income from assets held in trading accounts	0	9.9	11.3	3	1	1.3	2.7
Interest income from federal funds sold and securities purchased under agreements to resell	8.2	98.5	842.6	50.9	6.4	46.8	78.4
<i>Total interest income</i>	1,303.0	1,753.6	13,050.4	593.5	135.3	1,520.2	2,393.8
<i>Interest expense</i>							
Interest on deposits	496.2	933.4	7,320.4	322.7	78.2	801.9	1,252.8
Expense of federal funds purchased and securities sold under agreements to repurchase	177.7	168.3	1,648.7	52.2	2.6	109.1	15.7
Interest on demand notes issued to the U.S. Treasury and on other borrowed money	41.3	7.1	221.0	4.0	7	30.6	76.3
Interest on mortgage indebtedness and obligations under capitalized leases	6	2.1	15.0	6	0	2.5	5.4
Interest on notes and debentures subordinated to deposits	1.7	1.1	65.7	4.4	6	3.1	1.4
<i>Total interest expense</i>	717.4	1,112.0	9,270.7	383.9	82.1	947.2	1,506.1
<i>Net interest income</i>							
Provision for loan and lease losses	585.6	641.5	3,779.8	209.6	53.3	573.0	887.0
Provision for allocated transfer risk	173.9	67.4	900.5	36.1	2.3	44.5	102.0
Noninterest income	0	-2	0	0	0	0	0
Service charges on deposit accounts	13.4	76.8	343.3	26.6	4.2	45.9	114.8
Other noninterest income	312.9	212.8	723.6	46.6	7.8	144.2	275.7
<i>Total noninterest income</i>	326.3	289.6	1,066.9	73.2	12.0	190.1	390.5
<i>Gains and losses on securities not held in trading accounts</i>							
Noninterest expense	-3	-3.4	20.3	7	-	1.8	54.4
Salaries and employee benefits	85.2	333.1	1,505.4	89.8	24.9	265.7	498.5
Expenses of premises and fixed assets (net of rental income)	28.1	99.0	473.7	30.1	8.0	83.6	164.2
Other noninterest expense	313.6	250.1	1,160.4	83.6	14.6	197.0	325.0
<i>Total noninterest expense</i>	426.9	682.2	3,139.6	203.5	47.5	549.5	987.7
<i>Income (loss) before income taxes and extraordinary items and other adjustments</i>							
Applicable income taxes	310.7	178.3	827.0	44.0	15.2	170.8	128.3
Income before extraordinary items and other adjustments	137.6	36.8	109.3	3.5	3.1	22.7	10.0
Extraordinary items and adjustments, net of taxes	173.1	141.5	717.7	40.5	12.2	148.1	118.3
	0	-2	3.3	0	0	2	42.5
<i>Net income</i>	173.1	141.3	721.0	40.5	12.0	148.3	160.8
<i>Total cash dividends declared</i>	12.1	61.7	259.8	16.1	4.0	52.4	37.3
Recoveries credited to allowance for possible loan losses	33.6	12.8	90.3	3.2	4	8.4	32.9
Losses charged to allowance for possible loan losses	144.7	48.8	751.1	39.6	2.1	31.9	272.2
<i>Net loan losses</i>	111.1	36.0	660.8	36.4	1.7	23.5	239.3

*Income and expenses of foreign and domestic offices and subsidiaries of national banks, by states,
year ended December 31, 1984—continued*
(Dollar amounts in millions)

	West Virginia	Wisconsin	Wyoming	District of Columbia nonnational*
Net income	100	122	58	1
Interest income				
Interest and fee income on loans	\$431.5	\$1,013.9	\$203.6	\$ 4.1
Income from lease financing receivables	.8	11.9	.2	.0
Interest income on balances due from depository institutions	16.4	29.2	7.1	.0
Interest and dividend income on securities	266.4	269.8	72.8	2.9
Interest income from assets held in trading accounts	1	11.0	—	.0
Interest income from federal funds sold and securities purchased under agreements to resell	51.6	52.3	16.9	.5
Total interest income	766.8	1,388.1	300.7	7.5
Interest expense				
Interest on deposits	438.4	766.4	176.9	3.3
Expense of federal funds purchased and securities sold under agreements to repurchase	51.7	132.0	5.1	.1
Interest on demand notes issued to the U.S. Treasury and on other borrowed money	3.3	13.3	1.3	.0
Interest on mortgage indebtedness and obligations under capitalized leases	6	1.1	4	.0
Interest on notes and debentures subordinated to deposits	2	2.1	6	.0
Total interest expense	494.2	914.9	184.3	3.4
Net interest income	272.7	473.0	116.4	4.1
Provision for loan and lease losses	14.1	63.8	30.4	1.3
Provision for allocated transfer risk	.0	1.1	.0	.0
Noninterest income				
Service charges on deposit accounts	13.4	36.9	10.5	.3
Other noninterest income	28.5	129.9	11.3	.1
Total noninterest income	41.9	166.8	21.8	.4
Gains and losses on securities not held in trading accounts	-3.1	-1.0	.6	.1
Noninterest expense				
Salaries and employee benefits	104.5	222.6	45.2	1.5
Expenses of premises and fixed assets (net of rental income)	30.4	61.0	12.4	.2
Other noninterest expense	77.2	160.8	33.9	1.3
Total noninterest expense	212.1	444.4	91.5	3.0
Income (loss) before income taxes and extraordinary items and other adjustments	85.2	129.6	16.9	.3
Applicable income taxes	10.6	23.4	.8	.1
Income before extraordinary items and other adjustments	74.6	106.2	16.1	.3
Extraordinary items and adjustments, net of taxes	.3	.3	—	.0
Net income	74.9	106.5	16.1	.3
Total cash dividends declared	29.4	55.3	15.1	29.9
Recoveries credited to allowance for possible loan losses	1.5	6.4	2.5	6.3
Losses charged to allowance for possible loan losses	7.6	50.0	11.6	54.3
Net loan losses	6.1	43.6	9.1	48.0
Ratio to total operating income				
Interest on deposits	54.2	49.3	54.9	41.8
Other interest expense	6.9	9.6	2.3	1.3
Salaries and employee benefits	12.9	14.3	14.0	19.0
Other noninterest expense	13.3	14.3	14.4	19.0
Total operating expenses	87.3	87.4	85.5	81.0
Ratio of net income to total equity capital (end of period) percent	11.3	11.0	6.7	7.0

* National banks in the District of Columbia are supervised by the Comptroller of the Currency. Nonnational bank data are not included in this report.

† Edge Act subsidiaries are defined to include Edge Act and Agreement subsidiaries in the U.S., branches located in Puerto Rico, the Virgin Islands and U.S. Trust Territories and branches and subsidiaries located in foreign countries.

‡ Assets of \$50,000 or more.

§ Data are from consolidated reports of income filed quarterly by all national banks. Five national noninsured trust companies are included in this report along with five national banks that did not report.

Assets and liabilities of national banks, date of last report of condition, 1972-1984
(Dollar amounts in millions)

Year	Number of banks	Consolidated foreign and domestic assets					Liabilities		Total equity capital
		Total assets*	Cash and due from banks	Total securities*	Loans, net*	Other assets	Total deposits	Other liabilities†	
1972	4,614	\$ 485,181	\$ 91,345	\$105,195	\$253,538	\$ 35,103	\$ 412,316	\$ 44,499	\$28,366
1973	4,661	564,714	108,128	106,833	303,931	45,822	470,143	63,675	30,896
1974	4,708	624,300	112,790	109,376	345,527	56,607	519,536	71,191	33,573
1975	4,744	648,350	117,715	128,163	347,686	54,786	540,492	71,204	36,654
1976	4,737	704,329	126,437	139,472	372,458	65,962	582,246	80,758	41,325
1977	4,655	796,851	150,508	143,219	429,318	73,806	654,057	97,795	44,999
1978	4,564	892,272	170,146	146,155	490,142	85,829	717,057	126,008	49,207
1979	4,448	996,281	188,554	155,395	547,397	104,935	785,272	156,713	54,296
1980	4,425	1,095,123	204,453	175,055	594,394	121,221	857,692	177,560	59,871
1981	4,454	1,200,901	205,523	180,253	662,016	153,109	922,829	212,374	65,698
1982	4,579	1,297,158	207,709	198,373	720,457	170,619	991,442	233,992	71,724
1983	4,751	1,393,112	215,217	228,579	777,939	171,377	1,078,065	236,001	79,046
1984	4,899	1,498,054	198,066	196,571	913,382	190,035	1,150,847	259,082	88,125

* For years 1972-1975 data are net of securities and loan reserves. Since 1975, data are net of valuation reserves and unearned discount on loans

† Includes subordinated capital notes and debentures

NOTE For earlier data on domestic office assets and liabilities, see *Annual Report of the Comptroller of the Currency*, 1977, p. 200

Assets and equity capital, net income, and dividends of national banks, 1967-1984
(Dollars in millions)

Year	Number of banks	Total assets* (foreign and domestic)	Capital stock (par value)			Net income before dividends	Cash dividends on capital stock	Ratios (percent)			Dividend yield, 1969-1975
			Preferred	Common	Total			Net income before dividends to total assets	Net income before dividends to total equity capital	Dividend yield before dividend	
1967	4 758	NA	\$ 55	\$ 5 312	\$ 5 367	\$1 757	\$ 796	NA	9 50	45 30	4 38
1968	4 716	NA	58	5 694	5 752	1 932	897	NA	9 53	46 43	4 41
1969	4 669	NA	62	6 166	6 228	2 534	1 068	NA	11 45	42 15	4 42
1970	4 621	NA	63	6 457	6 520	2 829	1 278	NA	11 93	45 17	5 24
1971	4 600	NA	43	6 785	6 828	3 041	1 390	NA	11 87	45 71	5 42
1972	4 614	\$ 489 403	42	7 458	7 500	3 308	1 310	68	11 72	39 60	4 64
1973	4 661	569 451	37	7 904	7 941	3 768	1 449	66	12 18	38 46	4 66
1974	4 708	629 568	13	8 336	8 349	4 044	1 671	64	12 05	41 32	4 68
1975	4 744	658 751	14	8 809	8 823	4 259	1 821	65	11 61	42 76	5 00
1976	4 737	704 329	19	9 106	9 125	4 591	1 821	65	11 11	39 66	4 41
1977	4 655	796 851	25	9 552	9 577	5 139	1 994	64	11 42	38 80	4 41
1978	4 564	892 272	29	9 912	9 941	6 173	2 196	69	12 54	35 57	4 46
1979	4 448	996 281	31	11 403	11 434	7 247	2 650	73	13 35	36 57	4 88
1980	4 425	1 095 123	34	11 939	11 973	7 666	2 951	70	12 80	38 50	4 93
1981	4 454	1 200 901	38	12 797	12 835	8 201	3 381	68	12 48	41 22	5 15
1982	4 579	1 297 158	115	13 501	13 616	8 236	3 808	63	11 48	46 24	5 31
1983	4 751	1 393 112	176	14 178	14 354	8 095	4 207	58	10 24	51 98	5 32
1984	4 899	1 498 054	319	16 076	16 395	8 424	4 248	56	9 56	50 43	4 82

* Data are not exactly comparable because assets through 1975 are net of reserves on loans and securities and since then are net of valuation reserves and unearned discount on loans. Also, equity capital beginning for 1976 is reported including certain portions of the reserves on loans and securities which were not reported separately for the years 1969-1975.

Total loans and leases past due at national banks, by states, December 31, 1984
(Dollar amounts in millions)

	Number of banks*	Type of loan					
		Real estate	Commercial and industrial	Personal	All other	Total domestic loans†	Foreign
Reporting national banks	4,900	\$11,053	\$13,194	\$4,645	\$5,887	\$36,874	\$10,155
Alabama	75	63	72	55	24	232	0
Alaska	6	54	24	5	12	102	0
Arizona	10	115	133	65	68	382	0
Arkansas	77	88	40	28	55	255	0
California	158	3,223	3,219	644	1,374	8,503	2,601
Colorado	229	120	133	52	181	606	0
Connecticut	14	65	117	61	19	263	18
Delaware	14	7	7	183	4	201	0
District of Columbia	19	136	141	14	32	326	59
Florida	182	511	307	180	109	1,138	20
Georgia	55	78	136	70	52	350	20
Hawaii	3	1	—	1	2	6	0
Idaho	7	38	64	20	30	154	0
Illinois	404	535	882	198	291	2,119	961
Indiana	111	135	83	68	80	415	17
Iowa	106	31	20	22	81	249	2
Kansas	165	33	15	29	52	180	0
Kentucky	79	65	39	34	54	223	10
Louisiana	67	123	180	91	57	475	0
Maine	9	17	10	8	4	40	0
Maryland	25	106	80	86	19	296	32
Massachusetts	64	210	326	84	130	769	321
Michigan	119	229	206	78	88	651	11
Minnesota	199	244	426	75	228	1,109	90
Mississippi	34	59	30	40	26	164	0
Missouri	126	70	120	49	97	397	46
Montana	54	22	7	19	57	158	0
Nebraska	123	23	15	28	88	221	0
Nevada	5	30	28	10	6	74	0
New Hampshire	27	16	9	15	13	56	0
New Jersey	71	300	270	99	52	743	8
New Mexico	42	32	20	20	38	145	0
New York	107	1,064	1,317	678	342	3,429	5,147
North Carolina	17	72	128	79	47	328	17
North Dakota	40	25	—	9	39	113	0
Ohio	150	405	435	231	119	1,257	33
Oklahoma	228	161	211	51	188	803	0
Oregon	7	144	154	31	60	393	2
Pennsylvania	195	429	766	233	513	1,983	195
Rhode Island	4	23	42	17	24	107	28
South Carolina	18	40	39	17	14	114	0
South Dakota	25	17	35	264	84	416	0
Tennessee	60	109	141	58	50	379	0
Texas	997	1,038	1,789	259	638	4,036	333
Utah	7	120	37	25	12	194	0
Vermont	12	19	15	6	4	45	0
Virginia	50	160	113	71	41	401	5
Washington	24	263	619	93	125	1,104	175
West Virginia	100	61	18	48	30	179	0
Wisconsin	122	101	163	31	84	440	2
Wyoming	58	23	17	13	50	151	0

*Does not include five national, noninsured trust companies and five national banks

†Sum of Real estate, Commercial and industrial, Personal and All other past due loans and leases is less than the Total domestic because non-accrual loans are not reported by loan type by banks filing the abbreviated Report of Condition and as a result are counted in the total figure only

NOTE: Dashes indicate amounts of less than \$500,000

Average national banks percent of loans past due at domestic offices, by assets

Assets in millions of dollars

	Less than \$10	\$10 to \$20	\$20 to \$25	\$25 to \$40	\$40 to \$100	\$100 to \$300	\$300 to \$900	\$900 to \$5 000	\$5 000 or more	All national banks
Real estate										
June 1983	3.1	3.9	4.5	3.9	3.7	4.0	4.3	4.6	5.5	3.9
September 1983	2.9	3.9	3.8	4.2	3.6	4.0	3.9	4.2	5.4	3.8
December 1983	2.9	3.7	4.3	4.1	3.6	4.1	3.7	4.3	5.4	3.8
March 1984	2.5	3.8	4.2	4.0	3.5	3.0	3.7	4.3	5.0	3.6
June 1984	2.2	3.9	3.4	3.6	3.3	2.7	3.4	3.6	4.8	3.3
September 1984	2.1	3.4	3.5	3.6	3.3	2.8	3.4	4.0	4.5	3.2
December 1984	2.0	3.6	3.9	3.8	3.6	3.0	4.0	4.4	5.7	3.5
Commercial and Industrial										
June 1983	3.5	4.7	5.1	4.9	4.5	5.3	6.2	6.6	7.1	4.8
September 1983	4.5	4.9	5.6	4.9	4.4	5.3	6.0	6.2	7.7	4.9
December 1983	4.3	5.2	5.1	4.7	4.3	5.0	5.3	5.4	7.2	4.8
March 1984	NA	NA	NA	NA	NA	NA	5.1	6.3	6.4	5.5
June 1984	NA	NA	NA	NA	NA	NA	5.0	5.2	5.5	5.0
September 1984	NA	NA	NA	NA	NA	NA	4.9	5.1	5.3	4.8
December 1984	NA	NA	NA	NA	NA	NA	5.0	5.1	5.5	4.9
Personal										
June 1983	2.4	3.5	3.6	3.3	3.1	2.6	2.7	2.3	2.3	3.0
September 1983	2.5	3.4	3.5	3.4	3.1	2.6	2.4	2.4	2.2	3.0
December 1983	2.9	3.7	3.5	3.7	3.2	2.8	2.4	2.5	2.3	3.2
March 1984	3.4	5.6	3.5	4.1	3.2	8.6	2.1	2.2	2.4	4.5
June 1984	2.9	3.7	3.2	3.3	3.1	2.6	2.0	2.1	2.3	3.0
September 1984	2.6	3.5	2.9	3.4	3.1	2.5	2.2	2.4	2.2	3.0
December 1984	2.8	3.8	3.5	3.6	3.2	2.7	2.4	2.7	2.4	3.2
All other										
June 1983	2.1	3.0	3.9	3.1	3.2	3.7	2.9	3.4	4.5	3.1
September 1983	3.0	3.3	2.8	2.8	3.2	4.2	3.5	3.2	4.3	3.3
December 1983	3.1	3.0	2.9	3.3	3.0	3.6	3.2	2.9	4.1	3.2
March 1984	2.5	3.7	4.3	4.7	4.2	3.3	1.9	2.2	3.9	3.8
June 1984	3.4	4.0	3.7	3.7	3.7	3.1	1.9	2.0	3.6	3.5
September 1984	2.4	3.8	4.1	4.3	3.8	3.3	1.4	1.8	3.3	5.0
December 1984	2.6	4.2	4.5	4.5	4.1	3.5	2.0	2.2	3.4	3.8
Total loans										
June 1983	2.7	4.1	4.5	4.5	4.4	4.1	4.5	4.8	5.7	4.2
September 1983	2.9	4.1	4.5	4.6	4.3	4.1	4.3	4.4	5.6	4.2
December 1983	3.2	4.3	4.6	4.7	4.4	4.2	4.0	4.1	5.4	4.3
March 1984	2.9	4.4	4.9	5.1	4.7	4.1	3.9	4.0	4.9	4.5
June 1984	2.8	4.4	4.3	4.5	4.4	3.8	3.6	3.6	4.4	4.1
September 1984	2.6	4.4	4.7	4.8	4.5	4.0	3.6	3.7	4.2	4.3
December 1984	2.7	5.0	5.2	5.3	4.9	4.3	4.0	3.9	4.5	4.7

See notes at end of tables

Average national banks' percent of loans past due at foreign offices, by assets

	Assets in millions of dollars			
	\$300 to \$900	\$900 to \$5,000	\$5 000 or more	A national banks
All foreign office loans				
June 1983	17.9	8.9	7.8	9.6
September 1983	23.2	11.2	8.9	11.2
December 1983	11.2	13.7	9.8	12.2
March 1984	7.2	8.6	8.6	8.4
June 1984	9.3	6.9	9.3	8.0
September 1984	9.8	8.7	8.2	8.8
December 1984	11.3	7.6	7.8	8.2

NOTES:

These figures include non-accrual and past due loan and lease financing receivables.

Past due loans—These items are (1) single payment notes 30 days or more past maturity; (2) single payment notes with interest due at specified intervals and demand notes on which interest is due and unpaid for 30 days or more; (3) amortizing real estate loans and closed-end monthly installment loans and lease financing receivables in arrears two or more monthly payments, or, if scheduled other than monthly, when one scheduled payment is due and unpaid for 30 days or more; (4) open-end credit accounts on which the customer has not made the minimum monthly payment for two or more billing cycles; and (5) unplanned overdrafts outstanding 30 days or more after origination.

Non-accrual loans—These items are (1) those maintained on a cash basis because of deterioration in the financial position of the borrower; and (2) those on which principal or interest has been in default for a period of 90 days or more unless the obligation is both well secured and in the process of collection, in which case it is considered merely past due.

Average banks' percent of loans past due—Percentages reported are averages of individual banks' percentages of loans past due with each bank accorded the same weight regardless of size; those individual bank percentages are based on dollar value of loans past due. All figures are as of the last day of the month indicated.

Loan categories—The loan categories for this table correspond to those for the report of condition except for "Other loans." "Other loans" includes loans to financial institutions, loans for purchasing or carrying securities, loans to farmers and all other loans not included in the specified categories.

Data for prior periods, based on slightly different definitions, may be found in the *Quarterly Journal*, Volume 2, Number 1, pp. 229–232.

Beginning March 1984, past due commercial and industrial loans of banks with less than \$300 million in assets have been combined with all other loans.

Office of the Comptroller of the Currency—Financial Statements

December 31, 1984

Balance Sheets

Assets	December 31	
	1984	1983
Current assets:		
Cash	\$ 834,354	\$ 466,840
Receivables:		
Travel advances	1,942,427	2,014,915
Accounts receivable	1,426,117	924,894
Accrued interest	—	1,063,052
Total receivables	3,368,544	4,002,861
Investment securities	41,815,972	18,999,255
Prepaid expenses and other assets	824,144	722,488
Total current assets	46,843,014	24,191,444
Investment securities—long-term	—	22,965,509
Fixed assets and leasehold improvements:		
Furniture, equipment and software	11,003,540	8,722,629
Leasehold improvements	9,017,839	7,140,713
	20,021,379	15,863,342
Less accumulated depreciation and amortization	8,367,401	6,826,403
Net fixed assets and leasehold improvements	11,653,978	9,036,939
Total assets	\$58,496,992	\$56,193,892
Liabilities and Comptroller's Equity		
Current liabilities:		
Accounts payable and accrued expenses	\$ 7,763,904	\$ 9,051,367
Accrued travel and salaries	3,450,781	3,357,714
Total current liabilities	11,214,685	12,409,081
Long-term liabilities:		
Accumulated annual leave	7,643,980	7,219,785
Unclaimed properties	141,245	145,946
Total liabilities	18,999,910	19,774,812
Comptroller's equity:		
Unrestricted	39,497,082	36,419,080
Total Comptroller's equity	39,497,082	36,419,080
Total liabilities and equity	\$58,496,992	\$56,193,892

See accompanying notes to financial statements.

Office of the Comptroller of the Currency—Financial Statements

December 31, 1984

Statements of Revenue, Expenses and Changes in Comptroller's Equity

	Years ended December 31	
	1984	1983
Revenue		
Semiannual assessments	\$145,190,618	\$126,880,357
Examinations and investigations	12,585,380	11,198,491
Investment income	7,359,821	7,254,079
Publication sales	593,890	200,119
Other	481,510	220,135
Total revenue	166,211,219	145,753,181
Expenses:		
Salaries	112,325,770	103,925,066
Travel	17,527,302	17,376,272
Relocation	3,736,886	4,515,481
Training	1,537,728	1,400,439
Conference expense	348,091	475,301
Office space costs	9,873,976	8,560,212
Office equipment and furniture	2,496,372	1,942,236
Office supplies, materials and services	1,166,206	1,314,557
Printing and copier	1,132,445	896,124
Automated services	7,700,148	7,241,971
Communications	3,470,173	2,815,198
Outside services	1,818,120	2,820,408
Total expenses	163,133,217	153,283,265
Excess (deficiency) of revenue over expenses	3,078,002	(7,530,084)
Comptroller's equity at beginning of year	36,419,080	43,949,164
Comptroller's equity at end of year	\$ 39,497,082	\$ 36,419,080

See accompanying notes to financial statements.

Office of the Comptroller of the Currency—Financial Statements

December 31, 1984

Statements of Changes in Financial Position

	Years ended December 31	
	1984	1983
Financial resources were provided by:		
Operations:		
Excess (deficiency) of revenue over expenses	\$ 3,078,002	\$ (7,530,084)
Charges not affecting working capital:		
Additions to accumulated annual leave	1,300,356	1,223,200
Depreciation and amortization	1,592,735	1,241,880
Amortization of premium and discount on long-term Government obligations, net	—	(391,013)
Net gain or (loss) on sale of fixed assets	7,520	(1,366)
Working capital provided by (used in) operations	5,978,613	(5,457,383)
Long-term U.S. Government obligations sold	22,965,509	—
Proceeds from sale of fixed assets	873	109,689
Proceeds from unclaimed properties	3,307	1,907
Total	28,948,302	(5,345,787)
Financial resources were used for:		
Purchase of fixed assets	4,193,168	1,981,957
Payment of accrued leave	876,161	770,225
Purchase of computer software	25,000	131,000
Purchase of long-term securities	—	14,812,500
Payment of unclaimed properties	8,007	—
Total	5,102,336	17,695,682
Increase (decrease) in working capital	\$23,845,966	\$(23,041,469)
Analysis of changes in working capital:		
Increase (decrease) in current assets:		
Cash	\$ 367,514	\$ 142,608
Investment securities	22,816,717	(23,466,361)
Accrued interest	(1,063,052)	750,000
Accounts receivable	501,223	35,370
Travel advances	(72,488)	420,335
Prepaid expenses and other assets	101,656	(132,060)
Total	22,651,570	(21,985,988)
(Increase) decrease in current liabilities:		
Accounts payable and accrued expenses	1,287,463	(4,512,909)
Accrued travel and salaries	(93,067)	3,457,428
Total	1,194,396	(1,055,481)
Increase (decrease) in working capital	\$23,845,966	\$(23,041,469)

See accompanying notes to financial statements.

Office of the Comptroller of the Currency—Financial Statements

December 31, 1984

Notes to Financial Statements, December 31, 1984 and 1983

Note 1—Organization

The Office of the Comptroller of the Currency (Comptroller's Office) was created by an Act of Congress for the purpose of establishing and regulating a national banking system. The National Currency Act of 1863, rewritten and reenacted as The National Banking Act of 1864, created the Comptroller's Office and provided for its supervisory functions and the chartering of banks.

No funds derived from taxes or federal appropriations are allocated to or used by the Comptroller's Office in any of its operations. The revenue of the Comptroller's Office is derived principally from assessments and fees paid by the national banks and income on investments in U.S. Government obligations. The Comptroller's Office is exempt from federal and state income taxes.

Note 2—Significant Accounting Policies

The accounting policies of the Comptroller of the Currency conform to generally accepted accounting principles. The financial statements are prepared on the accrual basis of accounting.

Investment securities are U.S. Treasury obligations stated at amortized cost which approximates market value. Premiums and discounts on investment securities are amortized on a straight-line basis to maturity.

Furniture and equipment are capitalized at cost less accumulated depreciation calculated on a straight-line basis over the estimated useful lives of the assets, which range from 3 to 10 years. Leasehold improvements are capitalized at cost less accumulated amortization computed over the terms of the related leases (including renewal options) or the estimated useful lives, whichever is shorter. Expenditures for maintenance and repairs are expensed as incurred.

Unclaimed properties represent amounts held for the benefit of the owners of properties recovered from the estate deposit boxes of closed national banks.

For comparative purposes certain 1983 amounts have been reclassified.

Note 3—Commitments

The Comptroller's Office occupies office space in Washington, D.C. under a lease agreement which provided for an initial five-year term with five consecutive five-year renewal options. During 1984, the second of these options, expiring in 1989, was exercised. In addition, district and field offices lease space under agreements which expire at various dates through 2000. Minimum rental commitments under leases in effect at December 31, 1984 are as follows:

1985	\$ 7,791,000
1986	7,634,000
1987	6,863,000
1988	6,715,000
1989	4,698,000
1990 and after	<u>20,556,000</u>
	<u>\$54,257,000</u>

Certain of the leases provided that annual rentals may be adjusted to provide for increases in taxes and other related expenses. Total rental expense under operating leases was \$7,821,000 and \$7,380,000 for the years ended December 31, 1984 and 1983, respectively.

The Comptroller's Office contributes to the Civil Service retirement plan for the benefit of all its eligible employees. Contributions aggregated \$6,727,866 and \$6,355,458 in 1984 and 1983, respectively. The plan is participatory, with 7% of salary being contributed by each party. Additionally, the Comptroller's Office contributes Social Security and Medicare benefits for all eligible employees.

The accompanying balance sheets include a liability for accumulated annual leave. Employees accumulate leave to specified limits. If not taken prior thereto such amounts are paid at retirement or termination.

Note 4—Contingencies

Various banks in the District of Columbia have deposited securities with the Comptroller's Office as collateral for those banks entering into and administering trust activities. These securities, having a par or stated

value of \$14,293,000, are not assets of the Comptroller's Office and accordingly, are not included in the accompanying financial statements.

The Comptroller's Office is a defendant, together with other bank supervisory agencies and other persons, in

litigation related to the closing of certain national banks. In the opinion of the Comptroller's legal staff, the Comptroller's Office will be able to defend successfully against these complaints and no liability is expected to result therefrom.

Opinion of Independent Accountant

Price Waterhouse
Office of Government Services

1801 K Street, N.W.
Washington, D.C. 20006

To the Comptroller of the Currency:

We have examined the balance sheet of the Office of the Comptroller of the Currency as of December 31, 1984 and the related statements of revenue, expenses and changes in Comptroller's equity and of changes in financial position for the year then ended. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. The financial statements of the Office of the Comptroller of the Currency for the year ended December 31, 1983 were examined by other independent accountants, whose report dated March 16, 1984 expressed an unqualified opinion on those statements.

In our opinion, the aforementioned financial statements examined by us present fairly the financial position of the Office of the Comptroller of the Currency at December 31, 1984 and the results of its operations and the changes in its financial position for the year then ended, in conformity with generally accepted accounting principles consistently applied.

March 15, 1985

Price Waterhouse

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